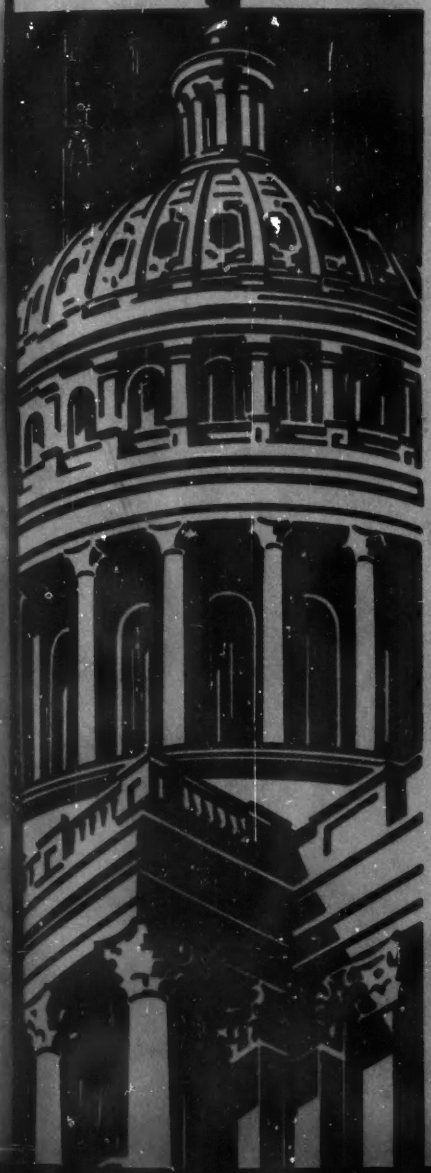
CONGRESSIONAL DIGEST

PRO & CON



November, 1935

The Alien Deportation Controversy in Congress

Story of America's Deportation Policy

How the Law Defines Deportable Aliens

The Doorway Into America For the Alien

The Handling of Alien Deportation Cases

Proposals Now Pending to Change the Law

The Kerr, Dies, and Dickstein Measures Discussed Pro and Con

WASHINGTON, D.C.

FIFTY CENTS A COPY

THE CONGRESSIONAL DIGEST

The Pro and Con Monthly

Not an Official Organ, Not Controlled by Nor Under the Influence of Any Party, Interest, Class or Sect

N. T. N. ROBINSON
Editor and Publisher

A. GRAM ROBINSON
Founder

Volume 14, No. 11 | 2131 LeRoy Place, Washington, D. C. | November, 1935

CONTENTS FOR THIS MONTH

Entered as Second-Class Matter September 26, 1921, at the Post Office at Washington, D. C., under the Act of March 3, 1879. Additional entry as Second-Class Matter at the Post Office at Baltimore, Maryland, under the Act of March 3, 1879; authorized August 22, 1927. Published every Month, except for July and August. Yearly index to each volume, January to December, furnished on request. Current subscription rates: $5.00 a year, Postpaid in U. S.; in Canada $5.25; foreign rates $5.50; current numbers 50c a copy; back numbers 75c up. Notary fees paid only on charges over $5.00. Indexed in The Readers' Guide and Other Indexing Publications.

SUBSCRIPTION RATES: 1 yr., $5, 2 yrs., $9, 3 yrs., $12, 2 to 20 subscriptions, $4 ea., 20 or more subscriptions, $3 ea. (To one address.)
BULK COPY RATES: Single copy 50c. 10 @ 40c ea. (To one address): 25 @ 35c ea., 50 @ 25c ea., 100 @ 20c ea. (Plus Postage.)

Address all Orders and Correspondence to: THE CONGRESSIONAL DIGEST, 2131 LeRoy Place, Washington, D. C.

The
CONGRESSIONAL
DIGEST MONTHLY

NOVEMBER
1935

The Alien Deportation Controversy in Congress

by N. T. N. Robinson

UNLESS political considerations cause the soft pedal to be applied by the Democratic party leaders in Congress an extremely hot battle is due to break out in the House of Representatives early in the coming session over the alien deportation issue.

Toward the close of the last session several bills were reported from the House Committee on Immigration and Naturalization dealing with several phases of this question but the leaders, desiring to prevent consideration of any but the special "must" legislation demanded by President Roosevelt, saw to it that these and other trouble making measures were sidetracked.

The deportation bills, however, are all on the calendar. Their friends are determined to press for their consideration and, in case they figure that such measures are too controversial and too heavily loaded with political dynamite to be threshed out in the open on the eve of a Presidential campaign, the Democratic leaders will have to exert considerable pressure to head them off.

Of first importance, from a legislative standpoint, is the bill introduced by Representative John H. Kerr, of North Carolina, ranking Democratic member of the Committee on Immigration and Naturalization, at the request of the U. S. Department of Labor.

The declared purposes of this bill are to so amend the existing deportation laws as to make more easily deportable aliens of the criminal class and make less harsh the regulations for the deportation of aliens of good character or aliens whose deportation would work hardships, by giving to an interdepartmental committee, composed of representatives of the Departments of State, Justice and Labor, discretionary authority to set aside the law in certain cases.

This bill has so far met with determined opposition from patriotic societies and individual Representatives on the ground that it puts too much power in the hands of the executive departments and because it contains no specific provision for the deportation of aliens engaged in subversive political activities.

Next in importance comes the bill introduced by Representative Martin Dies, Democrat, of Texas, one of the leading immigration restrictionists in Congress. This bill so amends the existing law relating to the deportation of anarchists as to make it specifically applicable to alien Communists and Fascists.

Similar to the Dies bill is a bill introduced by Representative Samuel Dickstein, Democrat, of New York, chairman of the Committee on Immigration and Naturalization, providing for prompt action in deporting or shortening the stay of aliens who come into the United States on temporary passport permits and who, while here, indulge in political propaganda.

In addition to these are many other bills on the general problem of the alien lying around in both houses of Congress, but it is around the three mentioned that the battle will be waged.

On one side are those whose main interest lies with the immigrant while on the other are those who believe that at this particular period in the affairs of America immigration should be restricted and as many undesirable aliens as possible should be weeded out from among those already here.

Naturally the question, being complicated, presents many phases. Undoubtedly a majority of Congress believes in restrictive measures at present for economic reasons, if for no other.

With the unemployed listed generally at around 10,000,000, all are agreed that further immigration should not be encouraged at this time.

But when it comes to the question of what to do on the matter of deporting aliens now in America, a wide difference of opinion appears.

This division is not along strict party lines. It is true that a majority of Republicans in Congress tend toward

restrictive measures, but among the Democrats the division is sharp.

The line of cleavage runs, generally, between those members of Congress who represent districts in which there is a heavy representation of foreign born, naturalized citizens, or American-born descendants of aliens, and those who represent districts controlled by native Americans. The former are usually from the big industrial centers while the latter are from the small towns and rural districts.

The leaders of both groups in the present Congress are Democrats.

During the coming debates on deportation legislation much will be heard of what the Department of Labor describes as "Hardship Cases."

These are the cases of aliens who are deportable under the law because they are in the United States illegally but whom the Secretary of Labor wants to permit to remain because of the circumstances involved.

Briefly these cases may be described as involving aliens who, several years ago, came in across the Canadian or Mexican borders, or as seamen or in various other ways but who, since their arrival, have been guilty of no other offense. Many of them have married and have families.

To deport them, the Secretary of Labor states, would work a hardship, not only on their families, but on the Government, because it would have to take care of many destitute persons.

There are some 2600 of these cases whose deportation the Secretary has held up. In 1934 the House Committee on Immigration and Naturalization adopted a resolution asking that they be held up pending action by Congress.

The Kerr bill provides the Secretary of Labor with power to cancel their deportation orders, but the Kerr bill did not come up in Congress at the last session, so, in the closing days, the House adopted a similar resolution and, on the strength of that, the "Hardship Cases" are being held up.

In its resolution, however, the House called upon the Secretary of Labor to send to Congress, by January 15, 1936, a complete list of those cases with full details of each one.

Those opposing the viewpoint of the Secretary of Labor say that these aliens, although their cases involve hardships, should be deported, because, when they came into the country they knew they were coming in illegally and have no rights that the Government need consider.

Another point of controversy is the giving of discretion to the proposed interdepartmental committee. Many members of Congress do not want to vote for this.

The Department of State does not want to be represented on such a committee because it would be handicapped in discussions with foreign governments over deportation cases.

Another objection, frankly stated by opponents of the Kerr bill, is that the present personnel of the Department of Labor leans too far toward aliens in general and alien radicals in particular. This charge was made during committee hearings on the bill.

Advocates of the passage of the Dies and Dickstein bills, dealing with alien "reds" cite the reports of the Fish Investigating Committee and the Committee on Un-American Activities, both of which recommended specific legislation for the deportation of aliens who advocate the overthrow of the government by force and violence.

They maintain that the time has come to stamp out these activities by drastic legislation.

Opponents of this legislation say it is unnecessary, unconstitutional and would fail in effectiveness against those at whom it is aimed, while injuring innocent victims of labor disputes.

Study Outline for the Classroom

In preparation for a discussion of the problem, the student will find that it is divided into two distinct viewpoints:—(1) that of the restrictionist and (2) that of the anti-restrictionist.

The main arguments, which will be found in the Pro and Con section, may be boiled down to the following:

Restrictionist

1. The admission of aliens to America is a privilege and not a right. It is the duty of Congress to protect American citizens and institutions at all times and if either is at any time threatened by alien individuals or influences it is the obligation of Congress to afford that protection by proper legislation.

2. Economic conditions are now such that the influx of aliens should be kept to a minimum, and all aliens, no matter whether they are of good character or not, who are illegally in the United States, should be deported.

3. Aliens who are legally in the United States and who are carrying on subversive actions should, by specific law be declared deportable as are aliens who are in the country legally but who commit a crime.

4. Congress should enact and demand the enforcement of specific legislation affecting aliens leaving only a minimum of discretion to the officers charged with administration of those laws.

Anti-Restrictionist

1. The enactment of liberal immigration laws is part and parcel of the traditional American policy and the immigration of law-abiding and industrious aliens should always be encouraged. Temporary restriction may be resorted to to meet emergency economic conditions, but definite restriction should never be an avowed American policy.

2. The present economic conditions are being cared for, so far as immigration is concerned, by the fact that until jobs are plentiful in the United States aliens are not desirous of coming. To deport aliens of good character who are here illegally but who have good records is inhuman and unnecessary.

3. Aliens carrying on subversive activities are negligible. The serious offenders can be reached under existing law. The remedy against Communism is to improve conditions in America so that Americans will be immune from Communistic propaganda.

4. Discretion is asked by the Department of Labor only for aliens guilty of minor offenses and fair and honest administration cannot be carried on without such discretion.

The Story of America's Alien Deportation Policy

WHILE America's immigration policy has, in the main, been characterized by great encouragement to the immigrant, it has been marked, from time to time by sharp restrictive measures.

These restrictions have been put into effect on those occasions when the flood of immigration has been too large for easy absorption.

In the beginning, with a sparse population and an abundance of land the newly formed American Republic desired immigration to build up the country.

In the Declaration of Independence, adopted July 4, 1776, among the complaints cited against King George III of England was one to the effect that he had set up restrictions against immigration to the colonies.

The Constitution of the United States, ratified in 1788, contained a provision that Congress, for the next 30 years, should pass no law interfering with immigration into the several states.

The Constitution provided, also, that Congress should have power "to establish a uniform rule of naturalization."

In 1790 the first naturalization law was enacted. It provided that, before being eligible for American citizenship, an alien must have resided in the United States for 2 years. This period was increased to 4 years by an Act of 1795.

Thus, while immigration was encouraged, the acquisition of citizenship was safeguarded.

In 1798 the first definite check on aliens was applied by the passage of the famous "Alien and Sedition Acts." There were four of these Acts and, while they are grouped in historical reference, one of them, the Sedition Act, was not directed solely at aliens. It provided for the punishment of all seditious acts or utterances, whether by an American citizen or an alien. The duration of the Sedition Act was limited to 2 years and it lapsed in 1800. (The Sedition Act was dealt with in the October, 1935, number of the DIGEST.)

The other three Acts, specifically dealing with aliens were:

1. *A Naturalization Act*, increasing the time of residence necessary to apply for citizenship to 14 years. This Act was repealed in 1802.

2. *An Alien Deportation Act*, empowering the President to order out of the country all aliens he deemed dangerous to the peace and safety of the country or whom he suspected of treasonable machinations against the Government. The life of this Act was limited to 2 years. It lapsed in 1800.

3. *An Alien Enemies Act* which gave the President the usual wartime power to deport alien enemies.

The passage of the Alien and Sedition Acts grew out of strained relations then existing between the United States due to the preying on American commerce by French privateers. This condition finally resulted in an informal naval warfare between American armed merchantmen on the one side and the French privateers on the other. War was never formally declared, but naval engagements continued over a period of several years.

On the ground that Frenchmen resident in the United States and American citizens who had French leanings were stirring up opposition to the Government's policy, President Adams had the Alien and Sedition Acts passed.

Friends of Thomas Jefferson, then Vice-President, and an avowed candidate for the Presidency, charged that the bills were aimed at Jefferson, who, since his service as ambassador to France, had been friendly to the French.

The Alien Laws of 1798 marked America's first action toward checking foreign political influence on American soil.

With an exception of an Act of 1819 laying down strict sanitary rules for passenger ships, no further law affecting immigration restriction was enacted for more than 30 years.

Between 1830 and 1861 the increase in immigration caused a growth of restriction sentiment, due to two causes. Since most of the immigrants of that period were from Ireland and were Catholics, an anti-Catholic sentiment arose. Since many of the immigrants were imported as laborers, American labor interests protested on the ground of cheap foreign labor. While a good deal of anti-immigration legislation was proposed in Congress during this period, none was passed.

The Civil War in 1861 not only diverted attention from anti-immigration legislation, but, because of the resulting loss of man-power, stimulated encouragement of immigration. In 1864 a bill was passed to encourage immigration by authorizing contracts for employment. This resulted in abuses and for several years American labor protested vigorously against the contract-labor system. The question of the rights of the states to make immigration laws was fought out during this period in the courts and the Supreme Court decided that the Federal Government alone had that right.

In 1875 Congress passed an Act providing for the exclusion and deportation of criminal aliens and aliens of immoral character.

In 1882 an Act was passed providing that the expense of the return of aliens not permitted to land should be borne by the steamship company bringing them.

In 1887 an Act was passed providing for the deportation of contract laborers.

The fight against contract labor continued until 1885 when a restricting Act was passed making it unlawful for any person to import or encourage the importation of foreign labor under any kind of contract to perform labor. This law was evaded and the heavy influx of immigrants continued.

Anti-immigration feeling rose again and, in their plat-

forms of 1892, both the Republican and Democratic parties declared in favor of restriction and by an Act passed in 1893 the immigration laws were tightened.

In 1897 Congress passed a rigid restriction bill, but President Cleveland vetoed it.

In 1903 a general immigration law was passed codifying all existing immigration laws and making many changes, including the adding of anarchists to the list of those subject to exclusion and deportation. The inclusion of anarchists followed the assassination of President McKinley.

It was in this bill that the word "immigrant" as used in previous immigration legislation, was changed to "alien," the reason being that, previously, an "immigrant" was construed to mean one who came as a steerage passenger and was inspected, whereas cabin passengers were not. Many undesirables came in as cabin passengers and the change of wording was designed to bring them under the inspection regulations.

In 1907 another immigration Act was passed with further restrictive features.

In 1910 the "White Slave Act" was passed, making stricter the provisions of preceding immigration Acts regarding the importation of women for immoral purposes.

In 1915 the Seamen's Act was passed. This Act contains a provision to the effect that a foreign seaman arriving in an American port is entitled to receive the pay due him up to the date of his arrival and to leave his ship. He is permitted to remain in the United States for 60 days while looking for another berth without being subject to deportation. If however, he accepts a job ashore or signs on a coastwise vessel, which is permitted to employ American seamen only, he loses his status and becomes deportable.

Alien seamen, quitting their ships at American ports and failing to leave America within the prescribed 60-day period, furnish an appreciable proportion of aliens illegally in the United States at present.

Frequently aliens sign on as seamen simply to get to America, and, upon arrival desert their ships and remain in America illegally. This was the status of Bruno Hauptmann at the time of his arrest for the kidnapping of the Lindbergh baby.

In 1917 the General Immigration Act of 1917 was approved. This Act amended various previous acts and contains many new provisions covering the general immigration policy of the United States. Classes of aliens deportable under this act will be found listed on page 261.

1918—On October 16 the Alien Anarchist Act of 1918 was approved. (See page 261.)

1920—On May 10, the Alien Deportation Act of 1920 was approved. This Act provided, chiefly, for the deportation of alien enemies who had been interned in America during the World War.

In 1921 the first Quota Act was passed. This Act was designed to restrict immigration by limiting the aliens allowed to enter the United States to a specified number from each country. Section 2 of the first Quota Act provided:

"That the number of aliens of any nationality who may be admitted under the immigration laws of the United States shall be limited to 3 per centum of the number of foreign persons of such nationality resident in the United States as determined by the census of 1910." The duration of the Act was limited to one year.

This was a drastic restriction Act and was designed to curb the post-war flood of immigration.

1922—On May 11 the provisions of the Quota Act were extended to June 30, 1924. On May 26 an Act was approved amending the Narcotic Act so it would cover aliens. (See page 261.)

1924—In May the Immigration Act of 1924 was approved. In addition to generally amending the Act of 1917, this Act changed materially the provisions of the Quota Act of 1921.

In place of using the 3 per cent of the foreign born in the United States in 1910, as a basis for quotas, the Act of 1924 provided for the fixing of the quotas on the basis of the "national origins" of descendants living in the United States. The provision was that the quota of each foreign country shoud be 2 per cent of the number of natives of that country residing in the United States in 1890, with a minimum quota to each country of 100. The bill also made changes in the classes of quota immigrants and non-quota immigrants. The 1924 Act also made provision for the examination of immigrants at American consulates in foreign countries.

The Quota Act was amended in 1927 and again in 1928 to rearrange the annual quota basis to be "a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin; but the minimum quota of any nationality shall be 100."

In 1929 several laws affecting aliens were amended. An amendment to the Narcotic Act provided that an alien addict, subject to deportation, who is transferred from prison to a Federal narcotic farm, shall, when discharged from the farm, be deported instead of sent back to prison.

In this year Congress passed an Alien registration Act which provided for the registry of aliens who arrived in the United States prior to 1921, but who has no record of entry, provided the alien is of good character, is not subject to deportation for other causes and had resided in the United States continually since 1921. All aliens who could meet the requirements of the Act were declared to be lawfully admitted to the United States.

Aliens Subject to Deportation Under Present Laws

AN alien who enters the United State illegally is by that very act subject to deportation. An alien who has entered the United States legally may become subject to deportation under certain conditions. These conditions are set forth in the following Acts of Congress which declare deportable—

Any alien:

Who has entered the United States in violation of the immigration laws or any other law of the United States.

Who, at any time after entry "shall be found advocating or teaching the unlawful destruction of property or advocating or teaching anarchy or the overthrow by force and violence of the Government of the United States or of all forms of law, or the assassination of public officials."

Who, within 5 years after entry, becomes a public charge from causes which have not arisen subsequent to entry.

Who is sentenced to imprisonment for a term of 1 year or more for a crime involving moral turpitude, committed within 5 years after entry or who has been sentenced to 1-year imprisonment a second time, committed at any time after entry.

Who is a prostitute or who in any manner connected with the practice of prostitution, or who imports or attempts to import a person for prostitution or for any other immoral purpose.

Who is convicted, or who admits the commission, prior to entry, of a felony or other crime or misdemeanor involving moral turpitude.—*General Immigration Act of 1917.*

Alien Anarchists

Who is an anarchist.

Who advises, advocates or teaches, or who is a member of or affiliated with any organization, association, society or group that believes in, advises, advocates or teaches: "(1) The overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character, or (3) the unlawful damage, injury, or destruction of property, or (4) sabotage."

Who writes, publishes, circulates, prints or distributes written or printed matter advocating, etc., the overthrow of the Government by force or violence, etc.

Who is a member of or affiliated with any organization, society, etc. that writes or circulates, etc., any literature advocating the forcible overthrow of the Government, etc., or who gives money for that purpose.—*Anarchist Act of 1918, amended 1920.*

Aliens Dealing in Narcotics

Who is convicted of violation of the law against the importation of or trading in narcotics, shall, upon the termination of his prison sentence, be deported.

Any alien (except an addict who is not a dealer in, or peddler of narcotic drugs) who shall be convicted and sentenced for violation of the Narcotics Act shall be deported.—*Act of 1922, amending Narcotic Act; Immigration Act of 1924; Narcotic Deportation Act of 1931.*

Aliens Violating Limited Visas

Any alien who at any time after entering the United States if found to have been at the time of entry not entitled under this act to enter the United States, or to have remained therein for a longer time than permitted under this act or regulations made thereunder, shall be taken into custody and deported in the same manner as provided for in sections 19 and 20 of the immigration act of 1917: * * *

Generally, aliens who are not entitled to entry under the Act of May 26, 1924, are such by reason of the provisions of section 13 (a) of that act, which provides that:

"No immigrant shall be admitted to the United States unless he (1) has an unexpired immigration visa or was born subsequent to the issuance of the immigration visa of the accompanying parent, (2) is of the nationality specified in the visa in the immigration visa, (3) is a nonquota immigrant if specified in the visa in the immigration visa as such, and (4) is otherwise admissible under the immigration laws."

Generally, aliens who are subject to deportation under Section 14 of the Immigration Act of May 26, 1924, for remaining in the United States longer than permitted by law or regulations are such as have been admitted pursuant to Section 3 of that Act, and have overstayed the time allowed them; such as:

(1) A Government official's attendants, servants, and employees.

(2) An alien visiting the United States temporarily as a tourist or temporarily for business or pleasure.

(3) An alien in continuous transit through the United States.

(5) A bona fide alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter temporarily the United States solely in the pursuit of his calling as a seaman, and

(6) An alien entitled to enter the United States solely to carry on trade between the United States and the foreign state of which he is a national under and in pursuance of the provisions of a treaty of commerce and navigation, and his wife, and his unmarried children under twenty-one years of age, if accompanying or following to join him.—*Immigration Act of 1924.*

The Doorway Into America For the Alien

I. Legal Entry

PRIOR to the closing period of the World War immigration to America was controlled (1) at our ports of entry and (2) by the application qualifying tests that were none too rigid. In response to a growing demand for restriction of the increasing flow of aliens to America, Congress, in 1921, passed the first Immigration Quota Law, limiting immigrants to a specified number from each country each year.

Defects of the First Quota Law

One of the defects in the Quota Law, as it turned out, was that if, for example, 2,000 immigrants were permitted to come in from a given country, the first 2,000 to reach American ports and be passed by immigrant inspectors, were allowed to land. This condition resulted in races between the vessels of various steamship companies. The losers in the races, who arrived after the quota to their country was complete, were forced to return and wait another year for their chance.

Issue of Immigration Visas Abroad

The Immigration Act of 1924 placed quota control and examination of would-be immigrants in the hands of the Department of State to be administered at American Consulates abroad, thus checking the flood at its source, and also empowered consular officers to refuse an immigration visa, or permit, if they "know or have reason to believe the immigrant is inadmissible to the United States under the immigration laws." This gave the consuls wide powers of discrimination in the types of aliens permitted to migrate to America.

Added emphasis to this power was given on the advent of the economic depression when, in 1930, the State Department instructed consuls to be strict in their requirements that applicants for immigration visas prove that, upon arrival in America, they would not become public charges. In normal times the healthy immigrant of good character could come to America and get a job promptly. Consequently he did not need much money to start with. But with unemployment prevalent, he would need a great deal.

An Immigrant Faces Severe Tests

Therefore, at the present time an immigrant has to pass a severe test at an American consulate. He must produce his birth certificate, proof of good character, proof of good health and proof that he will not become a public charge. On the matter of health, he must pass a rigid examination from a United States Public Health Service physician attached to the consulate, or, in the case of some consulates, by a reputable native physician, authorized by the consul to do the work.

If his application for a visa is approved he pays a visa fee of $10, and permission to go to a port of embarkation. At the port he receives another physical examination by the physicians of the steamship company because, if he lands in America with a disease which immigration officials decide could have been detected by a competent medical officer before he sailed, the steamship company has to take him back and pay a heavy fine.

Landing in America

Landing in an American port, he is detained for further examination by agents of the Bureau of Immigration and Naturalization, and of the Public Health Service. This detention rarely exceeds 24 hours and less than 1 per cent of the immigrants who pass the tests of the American consuls and the steamship companies and board an American-bound vessel are turned back at the port of entry.

When an immigrant is released he usually joins friends or relatives who are waiting for him. If he is alone he is looked after by an immigrant aid society of natives of his country. There are a number of these organizations with agents at ports of entry.

Once he is released by the authorities, he is free to go and come in the United States with all the privileges of a native, except the right to vote and the right to hold office. He is safe from interferences unless he is convicted of certain specified offenses.

II. Illegal Entry

An alien who has entered the United States without fulfilling the requirements of the law governing entry or who has come in legally, under a temporary permit, but remains after his time-limit has expired is an illegal alien.

The illegal entry of aliens into the United States is accomplished by a variety of methods. The majority come in across the Canadian and Mexican borders or are smuggled in along the sea coasts. For awhile the Florida peninsula was a favorite landing place, because Cuba was encouraging immigration and Europeans landed legally in Cuba and were then smuggled into Florida.

Another method is to sign on as a seaman on a foreign vessel and desert on reaching an American port. A foreign seaman may leave his vessel at an American port, remain in America for 60 days looking for a berth on another vessel. Many bona fide foreign seamen simply remain in America becoming, thereby, illegal aliens.

The third method, as mentioned above, is to obtain a temporary permit for a business or pleasure visit and remain.

All illegal aliens are subject to deportation at any time they are apprehended.

The coasts and the land borders are closely guarded by immigration inspectors and the border patrol to prevent illegal entry. Many are stopped at the border and many more are picked up shortly after they cross.

Since most of the ports of entry are large cities it is difficult to apprehend deserting seamen and others who enter illegally at those points.

In fact, apprehension after entry is never easy.

The immigration authorities, however, have working agreements with the police, with hospitals and other institutions by which aliens who fall within the purview of these institutions and who are suspected of being in America illegally are promptly reported. In this manner many are picked up.

The Handling of Alien Deportation Cases

An alien suspected of being deportable as being in America illegally is first arrested on a warrant issued by the Secretary of Labor or one of the Assistant Secretaries in the absence of the Secretary.

He is then given a hearing before an immigration inspector, at which hearing he is privileged to be represented by counsel. The testimony at the hearing is taken down and forwarded to the Board of Review of the Department of Labor in Washington.

This Board is composed of officials of the Bureau of Immigration and Naturalization, usually drawn from the legal branch. The recommendations of the Board are presented to the Secretary of Labor. If the Board recommends deportation and the Secretary approves, the Secretary issues a warrant of deportation.

An immigration agent then takes charge of the alien, buys him a ticket back to his native land and puts him aboard a steamer.

In the case of a criminal alien, the judge by whom he is sentenced for a deportable crime may within 30 days after pronouncing sentence, recommend to the Secretary of Labor that the alien not be deported. Otherwise he is sometimes deported at once or is made to serve his term, with deportation following the completion of his sentence.

The Department in Charge

The general handling of the alien problem in the United States devolves upon the Immigration and Naturalization Service of the United States Department of Labor.

In 1933 the Immigration and Naturalization Service was formed through the consolidation of the former Bureaus of Immigration and Naturalization.

The functions of the consolidated service are the administration of the laws relating to the admission, exclusion, and deportation of aliens, and the naturalization of aliens lawfully resident in the United States; the investigation of alleged violations of those laws, and, when prosecution is deemed advisable, to submit evidence for that purpose to the appropriate United States district attorneys.

Under the provisions of the act of June 29, 1906, naturalization jurisdiction was conferred upon certain specified United States and State courts. The service supervises the work of these courts in naturalization matters, requires an accounting from the clerks of courts for all naturalization fees collected by them, and through its field officers, located in various cities in the United States, investigates the qualifications of alien candidates for citizenship and represents the Government at the hearings of petitions for naturalization.

The Bureau is under the direction of a Commissioner of Immigration and Naturalization, who is assisted by three Deputy Commissioners. For purposes of administration the United States is divided into 20 immigration and naturalization districts. The headquarters in five of these districts are under the direction of commissioners, who are Presidential appointees. These commissioners are located at Boston, New York, Baltimore, Seattle and San Francisco. Other headquarters are under the direction of District Directors. In addition to the districts in the United States are the San Juan, Porto Rico, and Hawaii districts, making 22 in all.

There are 230 immigration stations under the various districts. The total number of employees, including the Border Patrol, is approximately 3,800. The appropriation for operating the service for the current year is $9,495,000.

Recent Figures on Deportations

The official report of the Department of Labor states that there were 8,879 aliens deported from the United States in 1934.

"Of these," the report states, "1,569 were criminals convicted of a crime involving moral turpitude and sentenced to imprisonment for 1 year or longer, 122 had violated Federal narcotic laws, 383 were prostitutes or connected with the white slave traffic, 20 were anarchists or prohibited radicals, and 662 were mentally or physically defective. The remainder had either entered the United States without proper immigration visas or their presence in the country was for some other reason illegal.

"In addition to the 8,879 who were deported, 8,010 aliens were warned by the Immigration Service that they could no longer legally remain in the United States and departed as ordinary travelers at their own expense. The two other groups together numbered 16,889.

"The corresponding total for the fiscal year 1933 was 30,212, including 19,865 deportations and 10,347 voluntary departures. The decrease can be attributed mainly to the virtual stoppage of immigration. Beginning with 1931, the number of aliens leaving the country has in each year exceeded the number arriving. Excess departures for this 4-year period totaled 229,365. During these same 4 years 507,127 aliens were naturalized and approximately 185,000 minors derived citizenship through the naturalization of their parents. The alien population of the United States in 1930, according to the census of that year, was 6,284,613. Assuming a mortality rate of only 1 per cent per annum, deaths would have reduced this total in 4 years by 247,637. Taken together, these three factors—excess emigration, naturalization, and mortality—indicate a shrinkage in our alien population of 1,169,129.

"It is, of course, impossible to say how many aliens entered the country illegally and unrecorded, but the figures on alien seamen deserting in American ports may be taken as a yardstick. In 1929 there were 11,314 such desertions, in 1933 only 664, and 972 in 1934. There has been little incentive for illegal entry in recent years, and it is possible that the number of such entries has been counterbalanced by unrecorded departures across the Canadian and Mexican borders.

"With no net immigration over a period of several years, a notable shrinkage in the alien population, and illegal entries discouraged by employment conditions, a decline in the number of aliens found subject to deportation is a natural consequence."

Important Deportation Bills Pending in the House

Of the more than 100 bills which have been introduced in the present Congress covering the immigration, exclusion, registration or deporting of aliens there are a few on which a showdown seems likely in the session beginning early in January.

Chief of these is the Kerr bill, prepared in the Department of Labor and representing that Department's views on what should be done. The provisions of this bill are given below. It was reported by the Committee on Immigration and Naturalization and its proponents applied to the House Committee on Rules for a special rule for its consideration but the request was denied.

The Dies bill for the deportation of alien Communists and Fascists; the Schulte bill for the prevention of the illegal entry of alien seamen and the Dickstein bill for the revocation of temporary visas of alien visitors and their expulsion if they indulge in foreign propaganda or political activities have all been reported from committee and will receive attention.

The big fight will occur over the Kerr and Dies bills, with the anti-restrictionsts supporting the former and the restrictionists supporting the latter.

The important pending bills, with their provisions and status are:

Delay Deportation of Alien Hardship Cases. H. Res. 350. Introduced by Representative Caroline O'Day, New York, Democrat. Reported from Committee on Immigration and Naturalization August 21, 1935. Passed August 23. This resolution requested the Secretary of Labor to stay until March 1, 1936 the scheduled deportation of 2600 hardship cases of aliens that Congress may consider legislation amending existing law and to send to Congress by January 15, 1936, a complete record of each case involved.

Alien Seamen. H. R. 5380. Introduced by Representative William T. Schulte, Indiana, Democrat. This bill provides for a closer inspection of the personnel of steamship crews by immigration inspectors; to determine if members of the crew are bona fide seamen and imposes greater restrictions generally on steamship companies. Designed to check the illegal presence in America of deserting seamen. Hearings held by Committee on Immigration and Naturalization March 13-14, 1935. Reported June 7. H. Report, 1183. Unanimous consent objected to August 9. On Union Calendar.

Habitual Commuting Aliens. H. R. 4340. Introduced by Representative George P. Sadowski, Michigan, Democrat. Prohibits the crossing of Canadian and Mexican borders of aliens who habitually commute to America to engage in skilled and unskilled labor. Designed chiefly to prevent Canadians who live in Canada from daily employment in the United States. Hearings held by Committee on Immigration and Naturalization March 6, 1935. Reported June 20. H. Report No. 1276 on Consent Calendar. Similar bill, S. 379 reported by Senate Committee June 7. S. Report No. 836.

Temporary Aliens, H. R. 7221. Introduced by Representative Samuel Dickstein, New York, Democrat, chairman House Committee on Immigration and Naturalization. This bill authorizes and directs the Secretary of Labor to provide regulations for the shortening or termination of the stay in America of aliens not admitted for permanent residence who, while in America, engage in the utterance of foreign propaganda or who engage in the political activity and also authorizes the Secretary to institute deportations against such aliens. This bill is aimed at alien Nazi, Fascist and Communist propagandists. Hearings held by the Committee on Immigration and Naturalization February 20; March 6-7, 1935. Reported May 31, H. Report No. 1057. On Consent Calendar. (*See page 284 for Pro and Con Discussion.*)

Alien Communists and Fascists. H. R. 7120. Introduced by Representative Martin Dies, Texas, Democrat. Hearings held by Committee on immigration and Naturalization April 3-4, 1935. Reported May 28. H. Report No. 1023. On Union Calendar. (*See page 282 for Pro and Con Discussion.*)

Provisions of Dies Bill (H. R. 7120) To Deport Alien Fascists and Communists

This bill, H. R. 7120, proposes to amend section 1 of the act approved October 16, 1918 (40 Stat. 1012), as amended by the act approved June 5, 1920 (41 Stat. 1008), both of which acts provide for the exclusion and expulsion of "aliens who are members of the anarchistic and similar classes." (See U. S. C., title 8, sec. 137.)

The amendments proposed by this bill serve to extend by legislative act the application of the provisions of section 137 of title 8 of the United States Code, so as to include alien Fascists, under either the present Fascisti school of thought, or the present Nazi school of thought, and to also include alien Communists under the present Soviet school of thought.

Section 1 of this act simply amends existing law, which now reads "aliens who are anarchists"; so that when amended it will read "aliens who are anarchists or Fascists or Communists."

Section 2 of this bill adds new legislation which is needed if section 1 is enacted. This new legislation proposes a definition of what aliens shall be considered, for exclusion and deportation purposes under this law, either Fascists or Communists.

The necessity for the enactment of this bill arises from the lack of definite legislative provision for the exclusion

or deportation of Fascists or Communists as such, under existing statutory law.

The act of October 16, 1918, as amended by the act of June 5, 1920, is the present basic act of Congress under which deportation proceedings are now instituted against aliens who are Communists. The application of this law in such cases is predicated upon court decisions, now effective as law, which have held that certain well-known organizations are organizations the principles, beliefs, and activities of which are of such a character as to class members thereof within the purview of the provisions of the above-cited basic act of Congress.

The acts above cited, of 1918 and 1920, centered around the anarchistic idea of "opposition to all organized government." On that basis alone Communist or Fascist aliens differ in that while they may be imbued with "opposition to non-Communist government or opposition to non-Fascist governments," they are not "opposed to all organized government." This decided differentiation of the subversive activities dominating "anarchists, Communists, and Fascists" renders necessary the enactment by Congress of a bill of this character in order to enable our Immigration and Naturalization Service to have a statute to guide them in handling the cases of Communists and Fascists.

With regard to Communists, a representative of the Department of Justice stated that "a probable advantage of naming Communists in the present bill is that the burden on the Government of proving the principles and beliefs of the Communist Party or the Communist Internationale in each case will become unnecessary."

A probable advantage of naming Fascists in the present bill is that the burden of proving the principles and beliefs of either the Fascist Grand Council or the National Socialist Labor Party in each case will become unnecessary.

In section 2 of this bill, wherein a Communist and Fascist is legislatively defined for exclusion and expulsion purposes under our immigration laws, the definition as embraced in clauses (1), (2), (3), and (4), is now a part of existing law as applied to Anarchists. However, the provisions of clause (5) of this bill is new legislation, and contained therein will be found additional definitions of a Communist or Fascist, as follows:

A Communist may be any alien who is a member of or affiliated with any organization which, or any alien who, believes in, advises, advocates, or teaches * * * (5) a doctrine which advocates the overthrow *by force or violence* of governments, constituted authority, or social order existing in countries not under the control of Communists and the establishment in place thereof of (a) a regime termed "proletarian dictatorship," or (b) a system based on common ownership of property and abolition of private property or social control of all private property: *Provided*, That the platform, program, and the objectives of the Third Internationale, or the Communist Internationale, shall be held to embrace the said doctrine.

A Fascist may be any alien who is a member of or affiliated with any organization which, or any alien who, believes in, advises, advocates, or teaches * * * (5) a doctrine which advocates the overthrow *by force or violence* of governments, constituted authority, or social order existing in countries not under the control of Fascists (or Nazis) and the establishment in place thereof of (a) a system termed either "national or state socialism" or "totalitarian state" or (b) a system based on common ownership of property and social control of all private property: *Provided*, That the platform, program, and the objectives of either the "Fascist Grand Council" or the "National Socialist Labor Party" shall be held to embrace the said doctrine.

While drastic language incorporated in these definitions and specific designations of Communists and Fascists is necessary because of the changed character of the subversive activities as carried on by certain classes of aliens, some legislative protection should be added to this bill as a safeguard for aliens who become the victims of the subtle methods by which these subversive organizations carry on their nefarious activities whereby the fundamental objectives are hidden in secrecy while they prey upon the ignorance, and perhaps distress, of workmen and others whom they seek to enroll as members of their basically subversive organizations.

Therefore, the committee added the words found in the last four lines of the reported bill. Here the committee states that "No alien shall be held to be a Communist or Fascist under the provisions of this act if he shall prove that he became a member of such organization on account of fear, duress, compulsion, misrepresentation, or fraud."

This safeguard places the burden upon the alien under investigation to prove the nefarious circumstances that resulted in his affiliation and membership which contributed to his detention for observation under this act by the Immigration and Naturalization Service officials. *—Extracts, see 2, p. 288.*

An Analysis of the Kerr Deportation Bill

Controversial Sections Indicated

THIS bill, H. R. 8163 (superseding H. R. 6795) is an Administration measure, drafted by the Department of Labor and introduced by Representative John H. Kerr, North Carolina, Democrat. Hearings were held (on H. R. 6795) by the House Committee on Immigration and Naturalization on April 9-10-11, 1935. It was reported on June 5, 1935 (minority report June 10). H. Report No. 1110 pts. 1 and 2. Now on Union Calendar. (*See page 268 for Pro and Con Discussion.*)

Provisions of The Bill

Sec. 1, Subsec. 1—Provides for the deportation of those aliens convicted of violating the narcotic laws of any State, territory, insular possession or the District of Columbia under the same conditions as now apply to persons convicted under Federal acts. The exemption in the present law of addicts who are not dealers in or peddlers of narcotics is included.

Criticism: The bill should also provide for deportation of a narcotic addict even though not a dealer or peddler of narcotics.

Defense: When the Act of February 18, 1931 providing for the deportation of the alien violators of Federal narcotic laws was being considered by Congress that body declined to include among the deportable classes addicts unless they were dealers or peddlers of narcotics.

Sec. 1. Subsec. 2—Authorizes the deportation of any alien convicted of *a single crime* involving moral turpitude *without regard to the sentence imposed*, provided that deportations proceedings be instituted within five years of conviction and that the Inter-Departmental Committee set up under Sec. 11 of the bill finds that the deportation is in the public interest.

Present Law: Provides for mandatory deportation of aliens *sentenced to imprisonment of one year or more* for crime involving moral turpitude committed within 5 years of entry or two such convictions since February 5, 1917.

Criticism (a): Requirement that proceedings be instituted within five years of the conviction and that the crime must be one involving moral turpitude is "wholly indefensible."

Defense (a): Immigration statutes have never provided for the deportation of aliens because of crime except it be a crime involving moral turpitude. The bill is therefore in harmony with past Congressional attitude on this matter. This provision guards against enforcement officers going back into the past to find a pretext for deportation. Deportation proceedings are now instituted shortly after conviction, without waiting for expiration of sentence, so that five years is ample for the Government in prosecuting cases of this nature.

Criticism (b): Existing provisions of law in regard to the deportation of the alien criminal are modified by this subsection.

Defense (b): This subdivision applies only to the large class of criminal aliens not subject to deportation under existing law. To this new group only does the requirement that deportation be found to be in the public interest apply.

Sec. 1. Subsec. 3—Renders deportable, if the Inter-Departmental Committee finds it is in the public interest, aliens who for gain engage in alien smuggling; also aliens who on more than one occasion assist others to enter illegally even if the element of gain is not involved—(as for instance the alien who assists his wife to enter illegally and later another member of his family).

Under Present Law: The alien who is smuggled into the country is deportable but the alien who smuggles him in is not.

Criticism: This subdivision is criticized for the limitation that an alien who smuggles another into the United States on *one* occasion must have done so "for gain" and for the limitation that the deportation of the alien must be in the public interest.

Defense: Distinction should be drawn between the professional smuggler who engages in such activities for gain and the person who for other reasons on one occasion may assist another to enter the United States. This provision was drafted primarily to enable the deportation of the professional alien smuggler who cannot be deported under the present law. Inclusion of the alien who on two occasions may assist in the illegal entry of members of his family renders especially necessary the provision that deportation be conditional on a finding that it is in the public interest.

Sec. 1. Subsec. 4—Provides that conviction (within 5 years of the institution of deportation proceedings) for possessing or carrying concealed or dangerous weapons shall render an alien subject to deportation, if found to be in the public interest.

Under the Present Law: Such convictions cannot be considered as grounds for deportation.

Criticism: (a) Objection is made to the limitation that proceedings must be instituted within five years of conviction.

(b) Objection to the requirement that deportation be found to be in the public interest.

Defense: The subdivision is intended to provide for the deportation of many vicious alien racketeers and gangsters who now escape deportation. The requirement mentioned is to guard against the mandatory deportation of the noncriminal who for purposes of self-protection may have a weapon on his person in violation of a local ordinance.

Sec. 2—Provides that recommendations of judges against the deportation of persons convicted of crime shall not be effective unless approved by the Inter-Departmental Committee. Gives judges six months within which to submit such recommendations.

Under Present Law: Any judge who sentences an alien criminal to a term of imprisonment requiring deportation may, by a simple recommendation to the Secretary of Labor within thirty days after the date of sentence, absolutely prevent deportation. The Secretary has no option in the matter.

Criticism: The six months' period given judges within which to make recommendations against deportation is too long. It will make it easier for undesirable influences to be brought to bear on magistrates, judges and pardon attorneys to prevent deportation where such action is based on conviction of crime.

Defense: The present 30-day period is entirely too short to permit of a thorough investigation. Six months has been set as affording ample time for adequate investigation by probation officers or social agencies. This section was drafted with a view to nullifying local influences which might be brought to bear on judges. It is for this sole reason that provision is made that their recommendations must be approved by the Inter-Departmental Committee. The longer period given judges should act as a deterrent. With adequate time to investigate it will be impossible to evade responsibility for the recommendations on the ground that all the facts were not available.

Sec. 3 (a) authorizes the Inter-Departmental Committee to permit to remain in the United States aliens subject to deportation who are of good character and who have been here in this country at least ten years or have members of their immediate family resident here. It is expressly provided that under this section no criminal, procurer, prostitute, other immoral person, or person covered by the so-called Radical Acts shall be permitted to remain.

Under Present Law: All aliens found subject to deportation must be deported no matter how technical the grounds and without any consideration whatsoever being given to the degree of gravity of the charges or to the suffering and hardship involved for their usually entirely innocent families.

(Editor's Note—This section covers the so-called "Hardship Cases" and is one of the most highly controversial features of the bill. For full criticism and defense see Pro and Con section.)

Sec. 3 (b)—Provides that aliens permitted to remain under the above provision shall be regarded as having been legally admitted as of the date of the order upon payment of a fee of $18.00, which is equivalent to the visa fee and head tax paid by immigrants who enter legally.

Sec. 3 (c)—Provides that an alien permitted to remain must apply for and actively prosecute his application for citizenship and that if he fails to do so he will revert to his former deportable status.

Sec. 4 (a) (b)—Provides that persons legally admitted to the United States as non-immigrants or students who are or who may become entitled to admission in a non-quota or preference status may be given that status if the Commissioner finds that the alien: (1) Would be entitled to such status were he outside of the United States. (2) Did not enter as a non-immigrant or student to evade the quota provisions of the immigration laws; and (3) Is otherwise admissible under the immigration laws.

Criticism: It is asserted that this section would make a mockery of the limitations which Congress has placed against *the illegal entry* of aliens.

Defense: It is expressly provided in Subsection B-2 of Section 4 that the Commissioner must be satisfied that the alien concerned did not enter as non-immigrant or as a student to evade the provisions of the immigration law. Permitting change of status without requiring a prior departure from the country gives to the aliens concerned nothing to which they are not entitled under the existing law. It merely has the effect of saving them a long and costly journey which serves no useful purpose.

Sec. 4 (c)—Provides that aliens permitted to change their status without leaving the country must apply for and actively prosecute their application for citizenship. Failure to do so renders change of status null and void and the alien reverts to former temporary status and becomes subject to deportation unless he departs voluntarily at the expiration of period for which admitted.

Sec. 5—Extends to aliens who are not deportable and who entered before July 1, 1924, the privilege of registry given under existing law to aliens who entered prior to June 3, 1921, provided that they are of good moral character and have resided continuously in the United States since their entry.

Sec. 5 (b) Provides that an alien permitted to register must apply for and actively prosecute his application for citizenship and that should he fail to do so the order authorizing his registry shall be null and void and he shall be deported.

Sec. 6 (a)—Requires that an alien should affirmatively prove he is entitled to any of the benefits under Sections 3, 4, or 5 of the bill.

Sec. 6 (b) (c)—Provides that aliens from quota countries permitted to remain or to register under the provisions of Sections 3, 4, and 5 shall be charged to the quota of their nationalities.

Sec. 7—Provides that for every alien permitted to have status adjusted under Section 4, or to be registered under Section 5, a fee of $18 must be paid.

Sec. 8—Authorizes the Secretary of Labor to designate supervisory officers in the Immigration and Naturalization Service to issue warrants of arrest for aliens. Now, all warrants must be issued by the Secretary from Washington.

Sec. 9—Provides that any employee of the Immigration and Naturalization Service shall have power to detain for investigation any alien who he has reason to believe is subject to deportation under this or any other statute. Any alien so detained shall be immediately brought before an immigrant inspector designated for that purpose by the Secretary of Labor and shall not be held in custody for more than twenty-four hours thereafter unless prior to the expiration of that time a warrant for his arrest is issued.

Criticism: It has been suggested that the provision be amended to limit the power to detain to "any employee of the Immigration and Naturalization Service specifically designated from time to time for that purpose by the Commissioner of Immigration and Naturalization with the approval of the Secretary of Labor, shall have power, etc."

Defense: No objection is raised to this suggested amendment.

Sec. 10—Provides for the usual issue of rules and regulations.

Sec. 11—Provides for the establishment of an Inter-Departmental Committee to be composed of representatives of the Departments of Labor, State and Justice. (It is this Committee to which reference is had in sections 1, 2, and 3 of the bill.)

Criticism: (a) The establishment of an Inter-Departmental Committee is criticized as a subterfuge and it is argued that it is inconceivable that any subordinate of the Departments of State or Justice would take a position or attitude implying criticism of policy recommended by cabinet officer.

Defense: This objection is not believed to be well founded. Departmental representatives on such committees reflect their own views or, in matters of policy, those of the head of their Department and not the views of any other Department head.

(b) Congress should retain control of our immigration and deportation policies and any really meritorious deportation hardship cases or other relief should be annually presented to Congress for determination and action in the future as it has been in the past.

Defense: The Supreme Court passed upon a case involving that statute, Mahler v. Ebey, 264 U. S. 32, and dealing with this very point as to delegation of power to administrative authority, said at page 40:

"Nor is the act invalid in delegating legislative power to the Secretary of Labor. The sovereign power to expel aliens is political and is vested in the political departments of the Government. Even if the executive may not exercise it without Congressional authority, Congress cannot exercise it effectively save through the executive. It cannot, in the nature of things, designate all the persons to be excluded. It must accomplish its purpose by conferring power of selection within classes upon an executive agency."

In the light of the procedent established for many years, established by the Congress itself and supported by the decision of the highest court, the criticism loses its force.

The essential point is that there shall be provided somewhere some means of preventing these cruel and unnecessary hardships.

(Editor's Note—This is another highly controversial provision of the bill. For full criticism and defense see Pro and Con section.)

Sec. 12—States that the provisions of the bill with the exception of Sections 2 and 5 are in addition to and not in substitution for existing statute.

Sec. 13—Revokes the preference-quota status accorded to agriculturists and their families.

Should Congress Pass the Kerr Deportation Bill?

[The Kerr Bill, H. R. 8163, embodies the recommendations of the U. S. Department of Labor for amending present deportation laws. Its provisions are enumerated on page 265]

PRO — Affirmative

★ *The Majority Report maintains that the Kerr Bill will reduce the number of immigrants, increase deportation of alien criminals and aliens who have illegally entered America and will prevent the working of hardships on aliens of good character.*

from Majority Views of House Committee on Immigration and Naturalization

THE Committee on Immigration and Naturalization, to whom was referred the bill (H. R. 8163) to authorize the deportation of criminals, to guard against the separation from their families of aliens of the noncriminal classes, to provide for legalizing the residence in the United States of certain classes of aliens, and for other purposes, having considered the same, report it back to the House without amendment and recommend that the bill do pass.

The Immigration and Naturalization Service of the Department of Labor has been for 2 years engaged in an intensive study of the deportation laws and their enforcement. The results of this study are incorporated in the above bill.

The purpose of this legislation is twofold:

(*a*) To lengthen the arm of the Federal law and thereby reach, prosecute, and deport certain types and classes of alien criminals who heretofore have escaped through want of legal process, legal jurisdiction, and statutes which clearly define those derelictions which are classified as crimes, either mala prohibita or mala in se. It gives the Department of Labor powers that it now lacks and badly needs for the apprehension of aliens who have entered this country illegally.

(*b*) It authorizes the exercise of a limited discretion in certain clearly defined deportable cases in which extreme hardships to individuals, often including American-born wives and children, is not justified or compensated by any corresponding public advantage. And it clearly defines constructive rules through which those aliens who are not criminals and who have either legal or humane rights to be here and remain here may assert and establish and consummate their right of citizenship and thereby be assimilated into our nation. The exercise of proposed discretionary power under this act is strictly limited to persons of good character who have not been convicted of crime and who have not engaged in subversive political activity; anarchists, communists, criminals, and immoral classes are excluded positively from any benefits under this act.

The majority of this committee is of the opinion that *this bill is the very groundwork through which we will ultimately absorb the non-criminal alien in this country and make it secure against the encroach of foreign blood and foreign influence.*

Let it be understood fully that this bill does not repeal any statute nor does it modify in the least any law which prohibits the entrance of criminals into this country or prevents those criminal aliens made deportable by our statutes from being sent away; nor does it by any stretch of the imagination enlarge the quota of any nation to our country—every alien who is allowed to qualify and compelled to become an American citizen is charged against the quota of his or her native country. It will, in effect, keep out of this country foreigners and consummate a most desired realization; namely, the naturalization of those aliens who are worthy and who for reasons satisfactory to themselves prefer to be citizens of the United States.

For many years immigration restrictions in this country have presented what many think to be too liberal an attitude of the Secretary of Labor in the enforcement of the rules and regulations vested in this officer, relative to the enforcement of our immigration laws. In this bill, in order to meet this objection whenever any discretion is vested in the administrative authority, it is placed in an interdepartmental committee or council composed of one outstanding official from each of the Departments of State, Justice and Labor. Certainly these Departments, which deal directly with the matters involved in this bill and all other matters of law enforcement and international relations, may be depended upon to act always with utter fairness and with an eye single to the preservation of our national rights.

(*a*) This bill will, if enacted into law, reduce the number of immigrants admitted in a preference status by the abrogation of the agricultural preference as described in section XIII of this bill.

(*b*) It will greatly increase the number of criminal aliens subject to deportation through adding to the deportable classes under section I additional violators of narcotic laws, aliens convicted of carrying concealed or dangerous weapons, aliens who engage in alien smuggling, and aliens who have been convicted of crimes involving moral turpitude regardless of whether a sentence of imprisonment has been imposed.

(*c*) It will greatly increase the number of deportations of persons who have entered or remained in the country illegally under the provisions in sections VIII and IX, which authorize the temporary detention of aliens pending the issuance of warrants and expedite the issuance of warrants of arrest. Through the lack of this authority, at least 2,600 aliens subject to arrest and deportation have been enabled to escape during the last year.

Pro continued on page 270

Should Congress Pass the Kerr Deportation Bill?

[The Kerr Bill, H. R. 8163, embodies the recommendations of the U. S. Department of Labor for amending present deportation laws. Its provisions are enumerated on page 265]

Negative

CON

★ *The Minority Report opposes the Kerr Bill on the ground that it gives too much discretion to the executive branch of the Government; and charges that it will confer American citizenship on law-breaking aliens and will permit to remain in America many aliens who should be deported.*

from Minority Views of House Committee on Immigration and Naturalization

THE undersigned members of the Committee on Immigration and Naturalization of the House of Representatives after careful and dispassionate consideration of the arguments advanced in support of H. R. 8163 by representatives of the Department of Labor, dissent from the conclusions set forth in the majority report for the following reasons:

1. H. R. 8163 provides for an abandonment of congressional control over the deportation of undesirable aliens and delegates this power to an interdepartmental committee composed of "representatives of the Departments of Labor, State, and Justice" (Sec. 11).

2. The bill makes otherwise mandatory deportable cases discretionary with the interdepartmental committee, with no appeal nor remedy from the use or abuse of its discretionary power.

3. The bill would permit to remain in the United States aliens illegally and unlawfully here or who have breached a condition precedent and promise prior to temporary admission.

4. The bill provides for legalizing illegal entries and conferring citizenship upon these lawbreakers who are at present ineligible for citizenship.

5. The bill seeks to place aliens now on nonquota status on quota status.

6. The interdepartmental committee feature of the bill provides for a division of authority between three executive departments for dealing with a social and domestic problem which is the responsibility of the Congress. The Department of State is opposed to this feature of the bill, and, if it is retained, is opposed to the passage of the measure.

The Constitution places the responsibility for promulgating policies and enacting laws with reference to immigration and naturalization upon the Congress. Congress should accept the responsibility. The members who subscribe to the views set forth in this report believe that laws pertaining to immigration and naturalization should be humane and just—but they also believe that in legislating upon these subjects that first consideration is due American citizens and American institutions.

H. R. 8163 embodies the basic defects found to exist in H. R. 6795, and both are merely new versions of H. R. 9725 which was defeated in the second session of the Seventy-third Congress on June 15, 1934, by the overwhelming vote of 186 to 92. The basic defects referred to are the abandonment of congressional control over the deportation of undesirable aliens; conferring practically unlimited discretionary powers upon an "Interdepartmental Committee" legalizing illegal entries; and breaking down our present nonquota restrictions.

The Commissioner of Immigration in his testimony before the committee stated that the Department of Labor had in the course of the past 22 months granted stays in proceeding for deportation of 2,355 aliens mandatorily deportable under existing statutes. The committee is advised that general deportations have decreased more than 50 per cent in the past fiscal year. Only 8,879 aliens were deported last year as compared with 19,865 in the fiscal year ending June 30 1933, and 19,426 for the fiscal year ending June 30, 1932. The Commissioner of Immigration further stated that only 26 per cent of the mandatorily deportable cases in which stays had been granted would be deported if discretionary power to deport or not to deport should be conferred upon the Interdepartmental Committee. This is positive proof that H. R. 8163 would weaken our present immigration laws by conferring discretionary powers to the executive branches of the Government.

Dealing further with the question of conferring broad discretionary power upon the executive branch to deal with the deportation of undesirable aliens, we desire to call our colleagues' attention to the fact that the issues raised are not new and the reasons for the embodiment of the mandatory features in section 19 of the Immigration Act of 1917, and supplementary legislation, were well considered after prolonged study of the whole immigration question by a Congressional committee which visited foreign countries studying the social, economic, and political conditions under which the immigrant lived. The report of this committee is covered in a published report of 42 volumes. Ever since the Immigration Act of 1917 the Congress has had to fight continuously against pressure and encroachment from the executive branch asking for broad discretionary powers for the Secretary of Labor.

Apropos to the responsibility resting upon Congress to deal directly with the question of immigration and the vital importance of the solution of this problem as it affects our whole social, economic, and political structure your attention is invited to a study of some statistics herewith, and to other statistics published as an appendix to this report.

Con continued on page 271

Majority Views, *Cont'd*

(*d*) As opposed to the inevitable large increase in the number of deportations made possible by the proposed bill, the number of persons of good character permitted to remain in the country with a view to averting the separation of families is comparatively small. The stays of deportation granted in accordance with the request of the House Committee on Immigration and Naturalization have averaged somewhat under 150 a month, or less than 1,800 a year. This number should rapidly decrease as the old cases are cleared up and the proposed new authorities covering arrest and detention become effective.

(*e*) It will effectively reduce the number of criminal aliens remaining in the United States by increased deportations; it will encourage noncriminal aliens in the United States to apply for a status preparatory to citizenship petition; and it will restrict new admissions from abroad by deductions from the quotas the number of noncriminal aliens permitted to stay here; it will remove the necessity for any legislation making mandatory a compulsory registration of resident aliens in the United States and Territories.—*Extracts, see 5, p. 288.*

▼

by Hon. Adolph J. Sabath

U. S. Representative, Illinois, Democrat

★ *Representative Sabath, a Czechoslovakian by birth and the oldest member of the House in point of service, urges that discretion in deportation cases be placed in executive hands.*

THERE is not a single member of any of these patriotic orders opposing the Kerr bill who is more patriotic than the Secretary of Labor or the Commissioner of Immigration; and there is no one who can exceed them in their honest-to-God American desire to enforce the laws.

It has been stated we should not leave the question of discretion open; that in every bill we have passed we have given the right to the department to adopt rules and regulations. But it is absolutely impossible to put everything in a bill. Therefore, you must have confidence in someone. I have confidence in the great majority of our public men and public women and even in the Members of Congress, notwithstanding the attacks that are being made from time to time. I think Members of the House of Representatives are as honest and as patriotic as any group in the United States, and that has been proven and demonstrated. Sometimes some of us are not as liberal and human as we might be, and we are carried away by misrepresentations. Very often statements are made in the press and on the floor of the House that there are 20,000,000 aliens in the United States illegally, and that there are millions of criminals in the United States, and that we ought to pass laws so harsh and so stringent as to deport each and every one of them who might have even crossed the street in violation of a street signal or red light.

I believe that we should be fair. I was one of the Members who had passed and was responsible for the strongest deportation section and provision in the act of 1910. I have always advocated and I advocate now the deportation of every criminal, every undesirable; and I believe that this bill will accomplish that.

I know we have men here in our country who should have been deported and I think we should give the power to the Secretary of Labor to deport them. I never have any use for any man who abuses a great privilege accorded him and given him. But I am unwilling to deport a man because unfortunately, through no fault of his, he might become a public charge.

I have had contact in years gone by with a man who was hit by a street car or an automobile, who lived here for 8 or 10 or 12 years who was obliged to be sent to the hospital, who had 3 or 4 children born to him in this country, but because he was sent to a public institution he became a public charge and immediately there was a demand that he should be deported because he was a public charge. That is inhuman and unfair.

If a man is a law-abiding citizen, has lived here for many years, has perhaps an American wife, a wife who has been born here, and who may have 2 or 3 children born here—would it be fair to separate that family and send them back and deport them?

I know of a case where a boy of about 9 months of age was brought here by his parents, and, due to conditions that existed, believed himself to be a citizen. Later on it was ascertained he was not a citizen. He was charged with some minor offense. Immediately, due to political reasons, the hue and cry was raised that he should be deported, notwithstanding that he had lived here for many years, was married, had a family, and had borne a splendid reputation in his community.

Now should not a judge be given discretion or should not the Secretary of Labor be given discretion to say, "Well, you have erred"—who has not during his life—"but you haven't really committed any crime. Be careful in the future and behave and take care of your wife and children and continue to live an upright life."

Now, I think that in difficulties of that kind the judge or the Secretary of Labor should have that discretion, and no harm has been done by entrusting to someone some right and some discretion in the administration of this law.

The Kerr bill is a bill tending in the right direction. I think under this bill we will be able to deport the criminals or those undesirables that should be deported, and I do not think the Secretary, under its provisions, will permit any violators of our laws to remain in the United States if they are undesirable or misbehave.

It does not in any way, from what I have been able to see, weaken or interfere with the immigration laws. It is merely a deportation bill pure and simple, and I want to congratulate the gentleman who introduced it. I realize that certain attacks are being made, but it has been always so. The patriotic organizations will send splendidly written articles to the newspapers, and the newspapers, in turn, will have to show how patriotic they are and they

Pro continued on page 272

Minority Views, *Cont'd*

For the fiscal year ending June 30, 1934, 163,904 aliens of all classes were admitted, an increase of more than 8 per cent over the year 1933. Doubtless as many more entered illegally as autos, boats, and even airplanes were apprehended smuggling aliens into the country. Of the 163,904 aliens 12,483 (an increase of more than 50 per cent over 1933) were quota or new seed immigrants; 78,435 were nonimmigrant aliens; and 72,986 were nonquota immigrant aliens. Of nonquota aliens 17,817 were new seed immigrants, making a total new seed or pioneer immigrants last year of 30,300, many of whom were common laborers and skilled mechanics of whom we have thousands unemployed throughout the whole United States. According to the census of 1930 there were 14,204,149 foreign-born in the United States of whom 6,284,613 were aliens. The foreign-stock population of the country at that time was 40,286,278, or more than a third of the total population of the United States and its possessions. This was the largest number in the history of the nation. During the past 10 years of quota law restriction 3,687,547 aliens have entered the United States, of whom 2,010,896 were new immigrants. The United States is the only country with a large foreign-stock population and the only country whose laws permit the entrance of dependents or unemployed. We have too many unemployed and dependents of our own; also an uncomfortably large group of defectives, delinquents, radicals, and criminals, without importing or allowing a single alien communist, radical, criminal, or job seeker to remain.

The proponents of H. R. 8163 herald it as a bill to strengthen the deportation laws when as a matter of fact with one inconsequential and questionable very small class of narcotic vendors (Sec. 1, subdivision 1) the bill, if enacted, would not add a single mandatorily deportable alien to existing law, but to the contrary would repeal most existing mandatory alien deportation statutes by substituting therefor discretionary deportation. The admitted chief object and purpose of the bill is to "permit to remain in the United States" (Sec. 3) aliens illegally and unlawfully here, or aliens who have breached a condition precedent and promise prior to temporary admission.

The bill is essentially in the interest of and for the relief of aliens illegally and unlawfully here and aliens who have not kept their temporary admission promises and have breached the very agreement by which they secured an easy temporary admission.

The bill boldly and audaciously raises the issue of whether one is for or against America and Americans and law-abiding, law-observing aliens legally and lawfully in our country. We think Americans and aliens lawfully here are entitled to first consideration and that first things should be first. The bill would decrease alien deportations and increase immigration, and would substitute indefinite personal administration and personal government for traditional definite administration by written law, definite practices and fixed precedents; and we therefore urge its defeat. So do the workers native and foreign born, so ably represented by the American Federation of Labor and the four standard railroad brotherhoods. And so does every old-line patriotic, fraternal, and civic organization, such as the Daughters of America, the Allied Patriotic Societies, the American (Gold Star) War Mothers, the Sons of the American Revolution, the Founders and Patriots of America, the Loyal Legion, the Minute Men, the Spanish War Veterans, the Veterans of Foreign Wars, the Daughters of the Revolution, the National Sojourners, the American Legion Auxiliary the Sons and Daughters of America, the General Executive Board of Junior Order and Fraternal Americans, the Commandery General of the Patriotic Order Sons of America, the Patriotic American Civic Alliance, the Junior Order United American Mechanics, the American Coalition of Patriotic, Fraternal and Civic Organizations, the Immigration Restriction League and many other outstanding groups and persons, present a united front against decreasing deportations and increasing immigration as this bill would bring about to the detriment of the working standards, and the social and economic conditions of our American citizenship, whether native born or naturalized.
—*Extracts, see 5, p. 288.*

by Hon. Martin Dies,

U. S. Representative, Texas, Democrat

★ *Representative Dies, author of several immigration restriction bills, charges that the Kerr bill is the culmination of efforts to weaken America's restriction and deportation laws.*

Our immigration policy is responsible for the 40,000,000 foreign stock in this country and the resulting unemployment problem. It accomplished more than the importation of a labor surplus. We introduced into our midst alien political, economic, and social ideas. There can be no compromise between the American system and the foreign. Our conception of individual liberty, private initiative, and inherent rights of the citizenship is diametrically opposed to the theory of collectivism and state socialism which prevails in foreign lands. Communism, Socialism, Fascism, and Hitlerism have one underlying principle in common. They hold that the individual should be the pawn or creature of the State; that the State is everything and the individual nothing. They destroy freedom of speech, freedom of thought, and the right to worship God according to the dictates of one's conscience. None of these systems rests on the active growth or moral value of the individuals, without whom the State is a fiction or a monster. Mussolini's formula is: "Everything for the State, nothing outside the State, and nothing against the State." The American principle, as distinguished from the foreign philosophy, is that the State was created to serve the individuals and that the citizen is a sovereign crowned with the ballot and surrounded with certain inherent and inalienable rights which cannot be destroyed or abridged by the Government.

And so the titantic struggle in the United States is between American individualism on the one hand and European collectivism or state socialism on the other.

Con continued on page 273

Sabath, *Cont'd*

will dwell upon it and give it a great deal of space. But I think if the outstanding gentlemen and even the newspapers themselves would take the time to familiarize themselves with some of these acts they would not be as harsh as they are in these matters.

Many aliens now living here would love to become American citizens if they could, but the restrictions have been so hard to some of them and the fees have been so high that, due to existing conditions for which these men have not been responsible, they have not been able to be naturalized. They are put to a test to read and write, and they are subjected to examinations that many a man born in the United States might find it hard to pass, and for that reason are rejected. I know many people who have tried to be naturalized and who are heartbroken because they cannot be naturalized. And it has been made nearly impossible for some of them to be naturalized, because most of these people, who come in here are first obliged to provide for themselves and for their families. They have not the time to go to school or to educate themselves. Many of them have to work in factories, in quarries, and such for long hours, and so they cannot acquire the English language as speedily as they would like to, and because of that fact they are denied that high privilege of becoming American citizens or of being naturalized.

I think this bill is a step in the right direction and I think by it we will be able to deport those that we have been unable heretofore to deport; and it will not permit a single alien more in the United States. I think the discretion is well placed. We must trust some one sometimes, and especially at this time; and I hope that for many years we will continue to have such an efficient Secretary of Labor and Commissioner of Immigration who will enforce the law as it should be enforced.—
Extracts, see 1, p. 288.

▼

by Daniel W. MacCormack,

U. S. Commissioner of Immigration and Naturalization, Dept. of Labor

★ *Commissioner MacCormack maintains existing laws favor the alien criminal and works hardships on aliens of good character and that the Kerr Bill will correct these evils.*

THERE is no statute of the United States which offers so many loopholes for the escape of the criminal, while at the same time imposing such barbarous treatment upon the person of good character, as does the body of law dealing with the deportation of aliens. Under these acts aliens guilty of the most serious criminal offenses are frequently able to evade deportation, while on the other hand, aliens who have committed no offense whatsoever, who have entered the country legally, who have been good residents who have been the support of their families, who are good citizenship material, are mandatorily deportable. I will cite just two cases to illustrate these points at the outset and will later discuss them in detail.

Now, with reference to the nondeportable criminal alien: Here is a man 50 years of age who has been in this country for 16 years. He was convicted in 1911 and sentenced to from 3½ to 6½ years for the possession of firearms; in 1917, he was given 5½ years for robbery; in 1925, he was arrested on a charge of grand larceny, but was released and his bond forfeited. He was arrested for grand larceny again in 1933 and discharged. In 1933, he was again arrested for robbery with a gun, and the case was dismissed. He was arrested five times and has been in prison 9 years, 7 months, and 2 days, but cannot be deported.

Now, this case illustrates graphically a number of the defects in the present law. This alien had been sentenced from 3½ to 6½ years for possession of firearms. This sentence cannot be counted against him for deportation, as a conviction for the possession of firearms is not considered conviction of a crime involving moral turpitude. It also illustrates the difficulty in the law which prevents our considering convictions prior to February 5, 1917, as even though this conviction for possession of firearms had been considered a crime involving moral turpitude we would not have been able to consider it as the conviction occurred prior to February 5, 1917.

It also indicates the difficulty caused by the requirement that deportation shall be conditioned upon the conviction of a crime involving moral turpitude accompanied by a sentence of 1 year or more within 5 years of entry, or two such convictions at any time after 1917. This man was given a sentence of 5½ years for robbery but the 5-year period after his arrival had expired and he was consequently not subject to deportation.

Again, this case illustrates the difficulty we have in the deportation of alien criminals because here is a man who has been able to escape the penalty of three crimes. In one case he is dismissed, in another case he is discharged, and in a third case he is allowed out on bail and permitted to escape. These last three counts give an indication of the effect of clever lawyers or political influence in the disposition of criminal cases. Now, here is a man who cannot be deported under the present laws but who, if any man should be considered a menace to our people, should be so considered.

The case also indicates the difficulty we have in the deportation of criminals who are able by one means or another to avoid having their cases come to trial or who are able to procure the dismissal of the charges against them. While this man I have referred to had been guilty of two serious crimes both accompanied by sentences of imprisonment and had continued his career of crime up until August 11, 1933, we find that in each of the three arrests subsequent to the conviction in 1917 it has been impossible to bring him to trial or if brought to trial he had been discharged. This criminal under the present law will never bee subject to deportation unless at some time in the future he should commit another crime involv-

Pro continued on page 274

Dies, *Cont'd*

American individualism does not mean the establishment of an industrial or financial feudalism controlled by a few men or interests. Such unrestrained individualism does not conform to the spirit of the American institutions of Government. There are some who construe American individualism to mean the concentration of wealth and power into the hands of a few. This is the European idea and never was American in origin or prinicple.

The question is, Shall a few, whether that few be feudal lords under a system of concentrated ownership and control or a dictatorship under systems such as prevail in Russia and Italy, govern the masses or shall individual and political freedom be preserved? Shall American individualism, as proclaimed by Thomas Jefferson, applied by Andrew Jackson, and interpreted by Woodrow Wilson, be retained as the basis of our political, religious, and economic life, or shall we embrace the foreign philosophy of an enthroned and governing minority, whether that minority be the Communist of Russia, the Fascist of Italy, or the great industrial and financial lords who seek control of the wealth, natural resources, and the industrial power of the country?

There is no middle ground or compromise. Either we are for or against America. If we are for America, we must be for the exclusion of new-seed immigrants and the deportation of those unlawfully here. If we are for America we are for those cardinal principles which are essentially American, such as liberty of speech, thought, and action consistent with the public weal, and the maintenance of a government that will be the servant of the people and not the master.

Those who are seeking to weaken our immigration, deportation, and naturalization laws by piecemeal legislation, such as removing the educational qualifications for citizenship, and even the obligation to defend their country in time of war, the legalizing of illegal entrants, the giving of discretionary power to the Secretary of Labor to deport or not to deport as she sees fit, the enlargement of nonquota classes, the nullification of the public-charge provision by the acceptance of worthless bonds, and all other such antirestriction measures which are now pending in Congress, are working against the best interests of this country.

The motives which actuate these various antirestriction blocs are immaterial and beside the question. The fact is that all of them—the internationalist, the sentimentalist, the greedy employer, or the steamship company seeking quick profits, and the aliens themselves and their relatives—are all working for the same results. Though actuated by different motives they have the same goal. They have hurled the challenge and thrown down the gauntlet.

They are engaged in a great offensive. They secure hearings on their bills without any difficulty and get them reported out without delay. On the other hand, hearings are granted to us on restriction measures only during the closing days of the season, when it is too late to secure favorable action. Even when, after the greatest difficulty, we secure passage of restriction measures in the House, we cannot get a vote in the Senate, as was illustrated by my two exclusion and deportation bills which passed the House in previous sessions only to die in the Senate for want of any active support.

While we are on the defensive, we are not "licked." We shall continue to appeal to the American people until public sentiment is so thoroughly aroused and crystalized in this Nation that the majority of the people will demand immediate action. I am appealing to my fellow countrymen to adopt the American slogan: America for Americans. The only way we can deport aliens is to deport them, and the only way to restrict immigration is to restrict it, and the only way to furnish employment to the idle American citizens is to give available jobs to American citizens before a single alien can be employed.

I regret that I cannot agree with Secretary of Labor, Miss Perkins, and with the Commissioner of Immigration, Mr. MacCormack, on this important question. Last year they sponsored two bills, H. R. 9725 and H. R. 9760, which were reported to the House by Representative Dickstein, of New York, and in the Senate by Senator Coolidge, of Massachusetts, the respective Chairmen of the Immigration Committees of the two branches. The only one to come to an actual vote was H. R. 9725, which was defeated in the House by a large majority.

Many restrictionists in this country do not believe that Madam Perkins is in sympathy with adequate restriction and expulsion of aliens. This wide-spread belief is expressed by W. C. Hushing, legislative representative of the American Federation of Labor, when he made the following statement before the committee when these bills were under consideration. Mr. Hushing said, "I think it would be especially unfortunate if she had this discretionary power, because I believe her leanings are toward the anti-restriction of immigration, and that is the opinion of the Federation."

Much of this belief is based upon the action of Secretary Perkins in reversing the order of her predecessor requiring that all immigrants be fingerprinted upon entry into the United States. Fingerprinting is the only practical known method by which the identity of an individual can be definitely established. This belief was also based upon her action in withholding the deportation of 1,200 aliens mandatorily deportable under existing statute and her effort to permit aliens or their relatives to execute bonds when they were rejected on the ground that they would likely become public charges. It is also based upon her action in admitting Emma Goldman, a notorious anarchist, and Henri Barbusse and Tom Mann, two persons whom the Department of Labor admits are Communists.

This belief was also strengthened by the opposition of the Labor Department to H. R. 4114, introduced by me, which proposed to reduce all quotas 60 per cent and to apply the quota to the countries of the Western Hemisphere, and its opposition to the Schulte bill. This opposition was largely responsible for the committee's refusal to report these bills favorably so that the House could have an opportunity to vote on them.

One cause for the doubt expressed by many restrictionists in regard to the leanings of the Secretary of Labor

Con continued on page 275

ing moral turpitude and be sentenced to imprisonment for a year or more.

Now, in regard to the mandatory deportation of the innocent: Instead of one case I am going to give two that came to my attention on the same day. These cases admirably illustrate the point I have in mind that the innocent are deported while the guilty are permitted to stay.

Senator Johnson's office sent a message to me concerning a young woman who came here from Canada some 5 years ago—a nurse, a respectable person, who lived in Pasadena and had many friends in that city. She entered a State or city hospital and there received treatment which amounted in the gross to $52. She could pay only $5 when she was discharged. She was immediately reported to us by the institution as having been a public charge to the extent of $47, and that makes her mandatorily deportable under the immigration law.

The other case is one called to my attention by an attorney in upper New York State. There is a naturalized American citizen who had a farm lying along the boundary in upper New York State. This man owns one of the largest farms in that section, of 1200 acres. He is prosperous and has a family here, including a son who was over 21 years of age when the father was naturalized and could not become a citizen at that moment. The boy walked across the border about 3 weeks ago to visit some Canadian neighbors. On his return instead of coming back across the road he walked back across the fields, taking a short cut. He was intercepted by a patrol inspector, arrested and is mandatorily deported on the ground that he entered the United States without inspection.

Now, it is an offense, of course, that he has committed, but it is not an offense of a nature to warrant taking a man from his father and mother, from his wife and American-born child and deporting him from the country. It is cruel and unnecessary and above all things it is foolish.

Some of the specific defects found in the law relating to criminals are:

First. Enforcement officers are hampered in apprehending aliens who have entered illegally through lack of authority to detain pending procurement of a warrant. There have been at least 2,600 cases lost in the last year through lack of this authority.

Second. Thousands of dangerous alien criminals are at large—not subject to deportation—because of the limitations in the present law as to date of conviction and period of sentence.

Third. Any judge or magistrate when sentencing an alien criminal may prevent his deportation by a simple recommendation to the Secretary of Labor; and if the judge or magistrate makes such recommendation, the Secretary's hands are tied and we may not proceed with deportation.

Fourth. Racketeers and gangsters who are convicted of carrying or possessing concealed or dangerous weapons may not have such convictions held against them as grounds for deportation. I have cited a case in point.

Fifth. Persons convicted of violations of State narcotic laws are not subject to deportation.

Sixth. Aliens who engage in alien smuggling are not subject to deportation.

Seventh. Criminals who have spent years in prison and who have had as many as 25 convictions recorded against them have by the employment of skillful attorneys or the use of influence succeeded in avoiding deportation by having cases nol-prossed or by pleading guilty to a lesser charge or by obtaining a suspended sentence.

We studied the reasons for the immunity of criminals from deportation, and when once we had determined the features of the law which permitted them to escape deportation, which were the defects I have just recited, we drafted measures intended to cure these defects. The proposals we have drafted are included in the Kerr bill.

I will mention just a few of the defects in the law as it relates to persons of good character:

First. While the law is kind to the criminal and provides many loopholes for his escape there is no power in the United States, not even that of the President, to avert the deportation of an alien who is not a criminal.

Second. It is possible to give no slightest consideration to the most exemplary character on the part of an alien concerned in deportation proceedings.

Third. As few countries will accept other than their own nationalities, it is frequently necessary to send the father to one country, the mother to another, and the children to a third, as I have told you. At times other children born in this country must be kept here to become public charges. This law not only separates families but disposes them beyond any possibility of reunion in this world.

Fourth. For a purely technical violation of the law, such as taking a short-cut from a farm on one side of the border to one on the other side, or for crossing the theoretical boundary line while fishing in a boundary river, an alien, if detected, is mandatorily deportable on the ground that he entered the United States without inspection.

Fifth. An alien who becomes a public charge for as much as a single day, due perhaps to a street accident, is mandatorily deportable if reported to the service. This is not the type of public charge intended by the Congress. However, under the present law the deportation of such an alien is mandatory.

Sixth. Aliens who are here in a temporary status and are legally entitled now to quota preferential admission for permanent residence cannot have their status adjusted in this country but are obliged to go abroad, sometimes traveling thousands of miles to take an examination and be given a visa which could, in most cases more effectively, be given them in the United States. It is an incredibly stupid technicality in the law but it separates a man from his family, for months and even for years. If they happen to get called for military service it then may be years before they can return.

Now, in a word, we have here a law which is barbarous beyond belief, which imposes hardships upon the innocent

Pro continued on page 276

Dies, *Cont'd*

on this question is the fact that total deportations decreased from 19,865 in 1933 to 8,879 in 1934.

Statements from trustworthy sources have been frequently made that there are 100 alien-minded organizations in this country which are opposed to restriction. It is impossible to quote from the platforms and statements of these various organizations or to show how they are actively represented in Washington to weaken our immigration and deportation laws.

To illustrate the high-powered and well-financed propaganda and activities of the alien blocs in seeking to influence American legislation, I refer to the letter dated June 5, 1935, of the American branch of the International Migration Service. This alien organization has its headquarters in Geneva, Switzerland, with branch offices in the United States, France, Germany, Greece, and Poland. It numbers among its vice-presidents such aliens as Jania Chlapowska, Inazo Nitobe, George Paspati. The letter is addressed to all cooperating agencies and urges them to write Congressmen and Senators and to get favorable material in local newspapers in behalf of the Kerr bill. The Kerr bill is the culmination of many years of planning and efforts to weaken our restriction and deportation laws, and is not in the interest of the native-born and naturalized American citizens or the aliens who are lawfully in this country and who desire to become American citizens. The Kerr bill is substantially the same as the Dickstein bill which was defeated last Congress by a majority of more than two to one.

So while I regret the necessity to take opposite sides with the Democratic appointee, Secretary Perkins, I am compelled by my convictions to do so, even though there are those who accuse me of not being in sympathy with the Democratic administration.

In conclusion, permit me to summarize the facts and the proposed remedies.

Do you know that—

One-third of our population is foreign stock?

Our unemployment problem was transfered to America from foreign shores, and if the 16,500,000 foreign born in this country today had been refused admission there would be no serious unemployment problem confronting our nation today?

There are 3,500,000 aliens unlawfully in this country according to my estimates, as many people as we propose to put to work by the expenditure of the $4,000,000,000 Public Works funds recently appropriated by Congress, and that these aliens can be promptly deported by adequate legislation and vigorous enforcement?

There are from 1,000,000 to 1,500,000 aliens on public relief who should be deported?

There are 6,000,000 aliens deriving their livelihood from jobs which Americans should hold and would hold if we had the same laws that are in force in other enlightened countries?

If we gave the jobs that are held by aliens to American citizens, the unemployment problem would be largely solved.

The Dies bill and proposal have the following provisions:

(1) Permanently stop all new-seed immigration from every country.

(2) Deport all aliens unlawfully in the United States, including alien Communists, dope peddlers, gangsters, racketeers, criminals, and other undesirables.

(3) Deport all aliens legally here who fail to become American citizens within a reasonable time.

(4) Gradually reunite families where the admitted relative is not likely to become a public charge or to take some job away from an American citizen.

(5) Register and fingerprint all aliens in the United States.

(6) Require every alien to secure from the Department of Labor a permit to work before he can hold any job, with the provision that permits to work will be denied to any alien so long as there is an American citizen able and willing to do the work.—*Extracts, see 3, p. 286.*

by Hon. Thomas A. Jenkins,

U. S. Representative, Ohio, Republican

★ *Representative Jenkins, opposing the Kerr Bill, says it will work against strict immigration restriction, which he deems necessary for the protection of American principles of government.*

BEFORE 1921 the restriction from our shores of that great wave of immigrants that threatened the inundation of our country was the one great immigration question. Immigrants came then at the rate of a million a year. The quota laws of 1921 and 1924 relieved that situation. If these quotas had been fixed 20 years sooner, we would have kept from our shores millions, many of whom are now on our relief rolls.

Ever since the quota laws were passed, alien-minded people have never ceased their efforts to open the doors, and to let down the bars, and to refuse to deport criminals and undesirables. This is our most serious problem now.

Our immigration laws should not be administered by a continuous procession of spineless apologists who are always looking for an excuse to let in a few extra thousands, or for an excuse for not deporting a few thousands who have failed to appreciate our land and her institutions.

Our problem is to maintain our own people and to assimilate those aliens who want to become Americans.

Our duty is to deport those who refuse to cooperate.

We have a large block of unnaturalized aliens in our population. Their exact number is not known. It should be known. There are probably 5,000,000. Many thousands of them have entered the country illegally. These must be controlled from the American viewpoint and not from the alien viewpoint. But alien influences have been at work seeking the passage of a law that would give citizenship to the whole group.

Con continued on page 277

MacCormack, *Cont'd*

that are unworthy of any civilized country, while at the same time in dealing with aliens who are undesirable and who are a menace to our people the same law is so weak and ineffective as to enable the most dangerous and undesirable types of alien criminals to escape.

For 2 years the Immigration and Naturalization Service has been engaged in an intensive study of the immigration law and its enforcement. We early came to the conclusion that the present restrictions on immigration are for the best interests of the United States and its people and also in the best interests of the alien who might otherwise attempt to come here. Under such conditions as we have had in the past few years and in view of the long period of readjustment that will be necessary before we have arrived at a solution of our problem of unemployment, it was unthinkable that anything should be done to encourage additional immigration to this country. We have got to bear in mind that not only is immigration undesirable at present, but that we have a long period of readjustment through which we must pass before we have solved our problems of unemployment and it will certainly be years to come before this country needs or can admit any increase in immigration over what we have had for the last few years.

We have, therefore, confined ourselves in the recommendations made to Congress to strengthening the law to facilitate the deportation of alien criminals and to providing means to avert some of the incredibly cruel hardships now imposed upon aliens of good character and their wives and families who are for the most part American citizens and who in the event of the deportation of the breadwinner must, in most cases, become public charges upon the United States.—*Extracts, see 1, p. 288.*

▼

by J. Weston Allen,

former Attorney General of Massachusetts, Member of National Crime Commission

★ *Mr. Allen stresses the necessity of executive discretion in handling deportation cases involving aliens of good character.*

By the act of March 2, 1929, it is provided that an alien shall not be deportable by reason of conviction of a crime if the court shall, within 30 days from the time of imposing sentence or passing judgment, recommend to the Secretary of Labor that such alien shall not be deported.

This well-intentioned but unfortunate legislation was based upon the theory that the judge who heard the criminal case was in a position to form an opinion as to whether the alien should be deported. While originally intended as a recommendation, it constitutes an absolute bar to deportation. Not even the President of the United States has power to overrule the recommendation of the trial judge, which is in fact a final order prohibiting deportation and not a recommendation at all. In practice this provision has operated to prevent the deportation of many criminals who are a menace to society.

It is altogether too much power to give a trial judge who has no knowledge of the alien offender except what he may obtain from the trial or from the probation officer. Oftentimes the alien is a habitual criminal, but not having committed a previous offense in that locality, the probation officer has no previous record.

Other considerations frequently influence the judge in recommending against deportation, who, in many cases is an inferior police judge of little or no experience. He may have a personal feeling against deportation. He may be too indolent to make any inquiry at all as to the defendant's previous record. He may make the recommendation as a favor to the defendant's counsel, or as a friendly gesture because he is imposing a longer sentence than the lawyer thinks his client deserves. He even may not know that his decision is final, but may make the recommendation, believing that the immigration officials will review the question and intending that they shall disregard his recommendation if the facts warrant it.

The pending bill in Congress recognizes the fallacy of permitting a trial judge, without adequate knowledge of the defendant, to control the action of the Federal authorities on the question of deportation, and the recommendation of the judge is made subject to approval by the inter-departmental committee established by the bill.

If the bill as now drafted is enacted it will put teeth into the present law, regulating the deportation of criminals, and will make it possible for the immigration authorities to rid this country of many dangerous and habitual criminals not now deportable.

The pending bill in Congress, commonly termed the "Kerr bill", in addition to strengthening the Federal arm in the deportation of criminals, will greatly facilitate the apprehension and deportation of aliens illegally entering the United States.

Under the present law (act of Feb. 27, 1925) an immigrant inspector or patrol inspector has the power, without warrant, to arrest an alien who "in his presence or view" is entering or attempting to enter the United States, but if entry has been made unseen, the alien cannot thereafter legally be arrested without a warrant, even if the inspector has proof positive that the alien has crossed the border only a few moments before. The alien can even admit he has entered illegally because, before a warrant can issue from Washington, he can be many miles from the border and out of reach of the patrol. The immigration Service reports that 2,600 illegal entrants escaped deportation during the past year solely because the immigration officials would not authorize arrest without warrant.

The Kerr bill authorizes the apprehension without warrant and detention for 24 hours in case of aliens believed to have entered or remained in the United States illegally. The alien must be brought at once before an immigration inspector, who, prior to the expiration of the 24-hour period, must obtain a warrant to continue the suspect in custody, or release him.

Pro continued on page 278

Jenkins, *Cont'd*

Those who follow immigration legislation are now much concerned over the Kerr bill. Similar bills were defeated in Congress in 1934.

This bill is the indirect result of the work of the "Ellis Island Committee." This was a committee of 48 selected by Miss Perkins, the Secretary of Labor, in 1933, to prepare recommendations by which the Department of Labor and Congress should be guided.

The selection of this committee under the pretense of attempting to interpret American sentiment and translating it into improved departmental action was an attempt to deceive the American people. Proof of it is that of this list of 48 the majority were entirely unfamiliar with the immigration problem, while the few real leaders of the group were notoriously opposed to the American viewpoint and for years have been identified with organizations that have opposed immigration restriction.

If Miss Perkins had intended to consider this question impartially and from the American viewpoint, she could have placed on this committee at least one person favorable to the American viewpoint.

So long as the President follows Miss Perkins and the Ellis Island Committee, he is closing his mind to the viewpoint of those groups who have for years been waging the battle to protect American labor and American standards of living, and have been loyal to our best traditions.

Our immigration laws need to be strengthened with reference to the deportation of Communists and undesirables, but this should be done by the friends of restriction of immigration.

It is claimed the Kerr bill will deport criminals, prevent separation of families, legalize residence of aliens, and will accomplish other purposes. Its declared purposes are splendid, but the sincerity of these purposes is questioned by the language of the bill. The past performances of some of those who will administer this bill also challenge the sincerity of its purpose.

The bill provides for the deportation of criminals in one section and for the deportation of smugglers and gun men and other undesirables in succeeding sections. But each section carries a closing sentence which practically nullifies the remainder of the section. This sentence is to the effect that the deportation will not be carried out unless an "interdepartmental committee finds that the deportation is in the public interest."

This committee is composed of one representative each from the Departments of Labor, State, and Justice.

Of course, the Secretary of Labor will control this committee.

This is the principal objection to this bill. It substitutes discretion for law. The Secretary of Labor in effect wants Congress to give this committee the discretion to determine who shall be deported and who shall not. Why have any law? Why not leave all deportations to a committee?

The granting of this wide discretion to the three Department representatives—not one of whom has ever been elected by the people and is not responsible to the people —will open wide the door for sinister political pressure for the benefit of persons to whom the American people owe no obligation whatever.

Before the Department of Labor should ask for more power it should enforce the laws now at its disposal. In 1934 there came to our shores 163,904 aliens of all classes. Most of these were visitors and returning aliens, but 30,300 new seed immigrants were admitted, which was 50 per cent more than was admitted the year previous. In 1933, 19,426 were deported, while in 1934 only 8,879 were deported.

This bill provides special preference to certain deportable aliens having relatives living in the United States. This would also encourage sinister political pressure and open the door for fraud.

This bill further provides that those who entered between the passage of the quota law of 1921 and 1924 should be blanketed into citizenship regardless of the legality of their entry. This has been opposed for years principally because many think American citizenship is too precious to be forced upon aliens who have not prized it sufficiently to take the initial step to procure it.

It is evident that this bill is an effort to supplant our mandatory immigration laws with a system of rules and regulations to be enforced according to the discretion of a committee. It is not a vigorous legislative statute that provides what must be done and the penalty for not doing it.

Those enforcing immigration laws should always remember that the alien has no rights of his own except such as we give him. The citizen has rights, but the non-citizen only has privileges.

We Americans believe in a Government by laws and not a Government by the discretion of political employees.

Law clearly stated and fairly interpreted will provide a safer yardstick than the discretion of any individual.

When we legislate further on immigration control, I think the following course would be wise and would meet with the approval of the American public:

1. Reduce all quotas to 10 per cent of what they are at present.

2. Establish quotas for North and South America just as we have done for European countries.

3. Register all aliens under a plan that would not embarrass the desirable but would identify the undesirable.

4. Deport all alien criminals, gunmen, and those who encourage the commission of crime.

5. Put the administration of the law in the hands of real Americans, who believe in the restriction of immigration.

Formerly alien influences were usually exerted by forces outside the Government, but latterly some of the most persistent influences have been encouraged, to say the least, from the inside of the Government and by officials whose solemn duty it was to maintain American ideals.

The great majority of the American people yield no allegiance to any country save the United States.—*Extracts, see 4, p. 288.*

Con continued on page 279

Allen, *Cont'd*

The provision for detention without warrant for a limited period gives to employees of the Department of Labor authority similar to that granted to the Department of Justice by the last Congress and will be an invaluable aid to the Service because:

1. It will make possible the deportation of thousands who would otherwise successfully evade the officials and escape detention;

2. It will eliminate the time which would otherwise be spent in the attempted search and apprehension of these illegal entrants, giving the inspector more time for apprehending other deportable aliens; and

3. It will make much more difficult and hazardous the operations of the organized rings engaged in smuggling aliens and have a deterrent effect on the aliens who now attempt to enter illegally.

The Kerr bill contains other provisions aimed to ameliorate the hardships of mandatory deportation of certain aliens who have been long resident in the country and are of good moral character but have unwittingly violated some provision of the laws relating to entry or residence.

In recognizing these cases the Wickersham report says: "Many persons are permanently separated from their American families with results that violate the plainest dictates of humanity"; and it further states, "In the opinion of the Commission the limited discretion * * * to permit in cases of exceptional hardship a relaxation of the rigid requirements of the present statutes would be consistent with the dignity of a great and humane nation."

To meet this situation the Kerr bill conferred a limited discretion on the Secretary of Labor in these cases of hardship, and the House committee further limited the discretion and vested it in an interdepartmental committee of three members to be comprised of representatives of the Departments of State, Jusice, and Labor.

We are not here concerned with the creation of this discretion, or with other sections of the bill which do not relate to the deportation of criminal aliens, except insofar as they may affect the passage of the bill.

Unfortunately, opposition has arisen to the granting of any discretion, even in these cases where deportation of aliens of good character will separate husbands from wives and parents from children, and also there is opposition to any discretion in the deportation of criminal aliens.

When legislation affecting immigration is before the Congress, party lines are largely eliminated, and the Senators and Representatives avowedly take sides as liberals or restrictionists. The restrictionists represent districts where there are comparatively few of foreign birth, and the liberals come from industrial centers and communities where many of their constituents are of foreign birth or descent.

Opposition to the bill has been aroused in part, due to the mistaken belief that it weakened the present law by giving discretion to the Secretary of Labor not to deport criminal aliens now mandatory deportable. Such is not the case. The mandatory provisions of our present law with respect to criminal aliens are retained, and only in extending the law include deportation of criminals not now deportable, is the discretion granted. Obviously, as the law is made more severe, the need for the exercise of discretion in the application of the law becomes imperative. Some classes of criminal aliens should be deported, others should be deportable. The proposed new law making aliens convicted of possessing or carrying concealed or dangerous weapons will result in the deportation of many habitual and dangerous criminals, but every alien convicted of possessing or carrying a concealed or dangerous weapon should not be sent out of the country never to return. The discretion must be vested somewhere if the law is to be broadened to reach the gunman and the racketeer.

One argument of the opponents of the bill remains to be considered. It is contended in the report of the minority of the House committee that the granting of any discretion is an abandonment by Congress of its control over deportation, and the delegation of a legislative power to an executive branch of the Government.

But in granting exercise of discretion to an administrative board within clearly defined limits, the Congress is only doing what it has done before in many instances. Similar discretion has been granted to the Secretary of Labor by the Immigration Act of February 5, 1917, with respect to the return of stowaways and the admission of aliens under 16 years unaccompanied.

The Supreme Court has recognized the validity of the delegation of such a discretion by Congress and has intimated that such discretion in the deportation of aliens may reside in the executive and administrative branch of the Government. In the case of *Mahler v. Ebey* (264 U. S. 32), in construing the act of May 10, 1930, which concerned the deportation of aliens, the Court said: "Nor is the act invalid in delegating legislative power to the Secretary of Labor. The sovereign power to expel aliens is political and is vested in the political departments of the Government. Even if the Executive may not exercise it without congressional authority. Congress cannot exercise it effectively save through the Executive. It cannot, in the nature of things, designate all the persons to be excluded. It must accomplish its purpose by classification and by conferring power of selection within classes upon an executive agency."

For more than 18 years, the Secretary of Labor has been exercising discretion in the deportation of aliens, and the Supreme Court says that the Congress, in expelling aliens, not only can, but must confer power of selection upon an executive agency, because it cannot designate all the persons to be excluded.

If the bill becomes law, it will serve the threefold purpose of (1) ridding the country of large numbers of alien criminals not now deportable, (2) decreasing illegal entries by arrest and return of aliens unlawfully crossing the border, and (3) granting discretion in the deportation of aliens of good character in cases of extreme hardship and severity.

The bill should receive the support of all patriotic and humane societies and citizens because, for every alien of good character permitted by the bill to remain in this country, it will cause the deportation of three or more aliens of bad character, including gunmen, racketeers, smugglers, and habitual criminals.—*Extracts, see 6, p. 288.*

Pro continued on page 280

by John B. Trevor,

President, American Coalition of Patriotic Societies

★ *Mr. Trevor declares the beneficiaries of the Kerr bill would be alien violators of the immigration laws, aliens belonging to subversive organizations, aliens supported by foreign organizations, shyster lawyers and professional welfare workers.*

THIS bill proposes to confer broad discretionary power on the Secretary of Labor along the lines provided in bills sponsored by the Department of Labor in the last session of Congress, and which were defeated by a vote of over 2 to 1 in the House of Representatives. In general it may be said that the beneficiaries of this bill, if enacted into law, would be aliens who have violated the immigration laws of the United States by entering the country illegally; aliens belong to subversive organizations; alien criminals and social defectives supported by foreign nationalistic organizations having political influence in congested districts; shyster lawyers and professional social-welfare lobbyists who place the interest of the individual above that of the public welfare.

Section 1: The opening paragraph of this section gives the impression at first sight that certain classes of aliens are mandatorily deportable at any time after entry. Such an interpretation, however, of the effect of this bill, if enacted into law, is wholly erroneous.

Subsection (1) of this section would appear to make mandatory the deportation of aliens who are guilty of violations of State narcotic laws. This mandate, if indeed it is not qualified by the provisions of section 4 of this bill, discussed hereafter, is strictly limited in its scope. It does not apply "to an alien who proves that he was an addict and was not either a dealer in or peddler of narcotics or their derivatives"; that is to say, under this provision a large percentage of the violators of State narcotic laws would still be permitted to live in the United States as a menace to the community, and, in many instances, ultimately to become a burden upon the taxpayer.

Subsection (2): This subsection would appear to make mandatory the deportation of aliens who have been convicted of "two or more crimes, committed on separate occasions, each of which involved moral turpitude", but the fact of the matter is, it does not make such deportation mandatory. This subsection which relates to the most dangerous element in the community, with the possible exception of the subversive groups, which will be dealt with later, qualifies the apparent mandate by a provision that aliens whose crimes fall within its scope shall only be deported "if the Secretary of Labor finds that deportation of the alien is in the public interest"; that is to say this subsection discloses the true purpose of the bill. It abolishes mandatory deportation as provided for in the act of 1917.

Subsection (3): This subsection, like subsection (2), appears to make mandatory the deportation of aliens who for "gain" induce, assist, or aid anyone to enter the United States in violation of the law, but in fact, it does not make such deportation mandatory. Deportation of aliens of this class is only to be made in the event that deportation is found by the Secretary of Labor to be "in the public interest." Here again, as has already been said, the true purpose of this bill has been disclosed. It confers the broadest kind of discretionary power upon the Secretary of Labor. Furthermore, there is a curious limitation imposed upon the deportation of aliens guilty of inducing, assisting, or aiding anyone to enter the United States in violation of the law, in that it requires, that the alien do so for "gain" in order to be deported. Such a limitation is, of course, wholly indefensible.

Section 2: The provision of this section distinctly weakens the corresponding provisions in section 19, of the Immigration Act of February 5, 1917. The second proviso of section 19 of the act of 1917 reads:

"That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court, or judge thereof, sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence or within 30 days thereafter, due notice having first been given to representatives of the State, make a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment."

The obvious purpose of the revision of this second proviso embodied in section 19 of the Immigration Act of February 5, 1917, is to allow greater latitude and time to the relatives and friends of an alien criminal to mobilize political pressure upon the executive authority whereby his deportation may be prevented. It may be said with confidence that the chief beneficiaries of the revision of this proviso by the Department of Labor are criminal aliens of the most undesirable class. The fact that this revision will unquestionably prove highly lucrative to shyster lawyers and professional lobbyists should in no way commend it to Congress.

Section 4: This section is the real heart of the bill. It confers the broadest kind of discretionary power upon the Secretary to "allow an alien found subject to deportation under any law to remain in the United States." To be sure, there are three limitations contingent upon a fourth or certain alternatives to the fourth limitation. Upon analysis, it may be said, with confidence, that these limitations are more apparent than real.

The question as to whether or not an alien is of good moral character must obviously be determined by the Secretary of Labor upon the recommendations of his, or her, subordinates. The views on moral character, therefore, of the Commissioner of Immigration, who is specifically charged with the administration of the immigration laws are particularly pertinent and are authoritatively set forth in his testimony on January 8, 1935, before the subcommittee of the House Committee on Appropriations, of which the following is an excerpt:

MR. BACON. "You do not mean to say that a person who deliberately smuggles himself in and thereby violates our laws is a person of good character?"

MR. MACCORMACK. "I should say he may be a person of good character."

Con continued on page 281

PRO

by Read Lewis,

Director, Foreign Language Service, New York City

★ *Mr. Lewis characterizes the Kerr Bill as a constructive step toward the solution of America's immigration problem.*

We have in the country at the present time, if we can believe the last census, some 6,000,000 aliens.

The vast majority of them are here legally. The Secretary of Labor estimated 2 or 3 years ago, in response to a Senate resolution, that the number here illegally was some 400,000, which is less than 10 per cent, and many of those have since been deported.

It has been urged that we force aliens to become American citizens. I think that is absolutely wrong. I think American citizenship means something more than holding a gun to a person and saying "Get out of the country or become an American citizen." What price American citizenship, if we create American citizens in that way?

In regard to citizenship we should enforce our immigration laws to prevent illegal entries, and follow up, as strictly as we can, people that do slip across the border.

In regard to the aliens, you have two groups—the great bulk of our alien population are those who did come in legally. Encourage in every way we can their education and their admission to citizenship. However, to force them to the penalty of deportation or to become citizens I think cheapens American citizenship. After all, there is no magic in American citizenship merely by the act of a judge in admitting a person. The person who is admitted is the same person the day after, practically, as an individual, as he was the day before.

The thing that counts is education. It is the desire for citizenship, because if citizenship means anything, it is loyalty and attachment for our form of government. If a highwayman holds you up and forces you to do something, you do not act of your own free will. It seems to me unworthy of the dignity of our country to take a step like that. I do agree that we should do everything we can even to remitting naturalization fees to encourage and make possible citizenship.

You have another group, the alien who is here illegally. What are we going to do about him? It seems to me that the Kerr bill takes a very forward step in permitting the alien who is here illegally, but who is not subject to deportation, to legalize his status and become a citizen. What an anomalous situation it is to have thousands of aliens in this country who cannot be deported whom we permit to stay here permanently, yet do not permit to become really a part of the country. It is bad for them, it is bad for the country, it is bad for their children. This bill seeks to correct that situation. I think in doing so it is taking a very progressive and constructive step.

I certainly endorse the Kerr bill as a whole. I think it is a forward-looking measure. I would like to say one word about deportations in general. Many of the witnesses at the hearings on the bill seemed to regard the number of deportations effected by the Department of Labor as somehow a guage of its loyalty and its efficiency. I think such a point of view is absolutely mistaken. After all, it implies that every alien is subject to deportation, that we ought to deport as many of them as possible. We deport aliens only for specific causes, where they have offended against our laws. If you will examine the reports for the Department of Labor for the last few years you will see that the majority of aliens who are deported are deported for illegal entries.

We have had, as never before, cuts in immigration during the last few years with our economic conditions here. There has been far less incentive to come in over the borders illegally. There have been far fewer persons subjct to deportation in the classes more readily apprehended. It is the most reasonable thing in the world that there should be a falling off in deportations.

The phrase "habitual aliens" has been raised and there again I think it is an injustice to our foreign-born people who, as a whole, are anxious to become citizens. Give them time. After all, there is a process of adjustment here. It has taken, in the history of the last 100 years, a period of 10 years or so. That has been about the average time that it took when the Irish came, when the Germans and the Scandinavians came. It takes some such period as that to make the adjustment to the new land.

We talk about the duties and privileges of citizenship which these people should carry. They are subject to the same laws, they pay the same taxes, they are subject to all the rest of the laws as we are. I think there are only two general provisions that they escape. We think of them as privileges as well as duties. They are jury service and voting. In regard to the voting, if you are familiar with the figures in the last election, we have only 30,000,000 people in round numbers, who voted during the congressional elections in 1934. There are not quite 40,000,000 that voted for the President in 1932. Do you know what our voting strength is in this country? According to the census it is over 67 million. There are some 27 to 37 million citizens who did not vote. I do not think that we ought to be too harsh.

After all, in the last 100 years we have admitted 38 million immigrants to the United States. In the history of the American people, Ellis Island is second in importance only to Plymouth Rock. I think that is the thing we need to remember today.

I think this Congress has a real opportunity before it, as perhaps it has rarely had. Certainly we are still in the process of working out an effective unity for our people here. One of the things that has helped to make progress toward the end during the past 100 years has been a sense of equality, a sense of justice and humanity to all people no matter from where they came.

Looking over the bills that are before Congress, we have at the present time, perhaps, more illiberal bills, anti-alien, anti-foreign-born in sentiment than ever before. I feel that Congress has a chance to maintain our American traditions of fair play and to respond to what is, I think, the dominant feeling of the country, in spite of the urges that come at the present time from certain groups under economic urgencies. It seems to me that this bill is one of the constructive steps in promoting a much larger share of justice and humanity and fair play to part of our population.—*Extracts, see 1, p. 288.*

Trevor, *Cont'd*

MR. BACON. "There is a definite law on the statute books, and it is a criminal offense; it is a felony, is it not?"

MR. MACCORMACK. "Since 1924."

It is hardly necessary to comment upon this extraordinary viewpoint..

An analysis of the 984,416 imigrants admitted into the United States in the years 1928 to 1933, inclusive, shows that 77.7 per cent came to join relatives, and an analysis of the more recent statistics available indicates that the percentage is rising to 85 per cent. The Department of Labor includes among the relatives, whose presence in the United States offers an opportunity to the Secretary to exercise discretion, groups heretofore not mentioned in our immigration statutes. Consider the infinite possibilities of fraud through the inclusion of illegitimate children, not to mention stepchildren or the possibility of acquiring an adopted child when the meshes of the law begin to close in upon an undesirable immigrant subject to deportation, although technical deportation proceedings may not actually have been commenced. I venture to suggest that when all the exceptions, so carefully embodied in section 4, are reduced to their practical operative effectiveness, it will be difficult to find any alien in the United States who is not exempted from deportation if the Secretary chooses to exercise the discretionary power conferred upon him or her by the provisions of this bill.

Before concluding this analysis, it is necessary to consider what are the views of those in authority in the Department of Labor respecting the subversive groups. Let us turn once more to the testimony of the Commissioner of Immigration on January 8, 1935, from which the following is quoted:

"When I first began to go into these cases personally, I found that we were deporting persons as Communists who were clearly not Communists. These men had joined what are known as the 'left-wing' labor unions not affiliated with the Federation of Labor, but affiliated with the so-called 'Trade Union Unity League' with the Red International of Labor Unions, and that in turn with the Third International and with the Communist Party in Moscow. Now, by that exceedingly tenuous thread they were connecting some poor miner, some poor textile worker, with the Communist Party at Moscow, and saying that he was subject to deportation as a Communist.

"I insisted, before permitting any more such deportations, on having a clear statement from the Solicitor of the Department as to the legality of this procedure.

"Clear legal evidence was submitted to us to indicate severance of the connection between the Trade Union Unity League and the Red International of Labor Unions."

The following excerpt is from a pamphlet issued by the Trade Union Unity League, under date of April, 1934:

"The Trade Union Unity League is based on the policy of class against class, and T. U. U. L. unions have come out in support of the revolutionary political class struggles led by the Communist Party, because this party believes in the class struggle."

It is difficult to understand how, in the light of this statement of policy in an official publication of the T. U. U. L. the Commissioner of Immigration could venture to give that organization such a clean bill of health.

The above testimony taken together with the fact that the Commissioner of Immigration admitted Emma Goldman, Henri Barbusse, and Tom Mann, despite a clear mandate in the existing statute for the exclusion of anarchists and persons belonging to similar classes, indicates a viewpoint quite at variance with that of the great mass of the American people who know that the alien agitator fills an important function in promoting discontent and in the dissemination of subversive doctrines.

It is perfectly obvious what the American people may expect from an accord of discretionary power to the Department of Labor.

Section 6 is a provision for the legalization of all persons who entered the United States illegally prior to 1924. Its purpose is clearly to condone that offense and it opens wide the gates for the admission of relatives of law breakers under the nonquota provision of the Immigration Act of 1924. It is in accord with innumerable bills which have been introduced in years gone by and failed of passage, because of their obvious intent to bring the enforcement of the quota law into contempt and increase immigration into the United States.

The passage of this measure is unquestionably against the public interest. Its effect if enacted into law in some measure may be gauged by the fact that the officers now charged with the administration of our immigration laws have turned loose into the community by their own admission 1,225 cases of aliens mandatorily deportable under existing statutes. In our opinion, this act is illegal and in defiance of the intent of the statute. Furthermore, from the testimony of the Commissioner of Immigration before a subcommittee of the House Committee on Appropriations at a hearing held on January 8, 1935, it is made evident that the deportation of undesirable aliens under the present administration in 55.3 per cent less than in the last fiscal year of the preceding (Republican) administration. In other words, Miss Perkins in the fiscal year 1934 deported only 8,879 aliens as against 19,865 deportations in 1933 and 19,426 deportations in 1932. These figures speak louder than words. The conclusions which must be drawn from them are inescapable and the American Coalition appeals to every patriotic and thoughtful citizen, either in or out of Congress, to exert his or her utmost energy to defeat this pernicious bill.

We are opposed to the granting of discretionary power, because this matter is no new question before this committee. It was considered by the Immigration Commission, which worked from 1907 to 1910. It was up at the time the committee was considering the Burnett bill, the act of 1917, which was a basic deportation measure, and it has been up, so far as I am aware, almost constantly, in the past 15 years that I have been taking an active interest in this question; and, regardless of party dominance in Congress, the feeling has been, by preceding committees, that an accord of discretion was most unwise, the ground being that it opened wide the possible exercise of improper influence. That is not making any charge of impropriety against the high officials, but you know, and the public knows, very well, all the influences that can be brought to bring about an exercise of an improper discretion.

Now, the deportation case differs, in our opinion, from that of a crime. I think the impression that has been given here, certainly the impression which I received, is that the deportation really is punishment for crime. It is not. The deportation of an alien does not involve a sep-

Continued on page 288

Should Congress Pass the Dies Bill to Deport Alien Fascists and Communists?

PRO (*See provisions on page 263*) **Affirmative**

★ *Representative Starnes, in reporting the Dies Bill from the House Committee on Immigration and Naturalization characterizes it a necessary legislation because of subversive activities by alien Communists and Fascists who cannot be reached under the existing law providing for the deportation of anarchists.*

by

Hon. Joe Starnes

U. S. Representative, Alabama, Democrat

THE Committee on Immigration and Naturalization, to whom was referred the bill (H. R. 7120) to provide for the exclusion and expulsion of alien Fascists and Communists, having considered the same, report it back to the House without amendment and recommended that the bill do pass.

This bill proposes to amend section 1 of the act approved October 16, 1918 (40 Stat. 1012), as amended by the act approved June 5, 1920 (41 Stat. 1008), both of which acts provide for the exclusion and expulsion of "aliens who are members of the anarchistic and similar classes." (See U. S. C., title 8, sec. 137.)

The introduction of and committee action upon this bill seem to be a proper legislative procedure in sequence to the findings and reports of two House special committees which have conducted extensive investigations into the extent and character of subversive activities in this country by aliens dominated by their alleged principles that the United States should be brought under a system of government or economics at present in control within certain foreign countries. These principles are those which control the alien adherents and territory of the Communists, Fascisti, and Nazi. Reference is made to the report of the special committee of the Seventy-first Congress (H. Rept. No. 2290, 3d sess.) and to the report of the special committee of the Seventy-third Congress (H. Rept. No. 153, 74th Cong., 1st sess.):

It is now quite generally conceded that insofar as the United States territory and Government is concerned our immigration question is a domestic question, and therefore Congress is within its province when it declares that, as such, alien Communists, alien Fascists, and alien anarchists shall be subject to exclusion or deportation from the territory of the United States. Current events and current knowledge concerning subversive activities of these classes of aliens convinces your committee that this bill (H. R. 7120) should be enacted at the earliest possible opportunity.

This bill does not affect any alien who, or the alien members of any organization that, although subscribing to the doctrine of a system of common ownership of property and the abolition of private property or the common ownership of the means of production, abstains from advising, advocating, or expressing belief in the establishment of such a doctrine, or doctrines, in the United States through the use of force and violence or other methods incompatible with our constitutional procedure.

The purpose of this bill, insofar as it affects the status of alien Communists, was covered by a bill heretofore considered favorably by the House of Representatives. The bill (H. R. 12044, of the 72d Cong.) was favorably reported from the Committee on Immigration and Naturalization on May 17, 1932; the House passed the bill, without amendment, as reported from the committee, on June 6, 1932; the Senate Committee on Immigration reported the bill, without amendment, to the Senate on June 11, 1932. The two favorable reports filed upon that bill were House Report No. 1353, of the Seventy-second Congress, and Senate Report No. 808, of the Seventy-second Congress.

The Act of October 16, 1918, as amended by the Act of June 5, 1920, is the present basic Act of Congress under which deportation proceedings are now instituted against aliens who are Communists. The application of this law in such cases is predicated upon court decisions, now effective as law, which have held that certain well-known organizations are organizations the principles, beliefs, and activities of which are of such a character as to class members thereof within the purview of the provisions of the above-cited basic act of Congress.

The acts above cited, of 1918 and 1920, centered around the anarchistic idea of "opposition to all organized government." On that basis alone Communist or Fascist aliens differ in that while they may be imbued with "opposition to non-Communist government or opposition to non-Fascist governments," they are not "opposed to all organized government." This decided differentiation of the subversive activities dominating "anarchists, Communists, and Fascists" renders necessary the enactment by Congress of a bill of this character in order to enable our Immigration and Naturalization Service to have a statute to guide them in handling the cases of Communists and Fascists.

With regard to Communists, a representative of the Department of Justice stated that "a probable advantage of naming Communists in the present bill is that the burden on the Government of proving the principles and beliefs of the Communist Party or the Communist Internationale in each case will become necessary."

With equal force, your committee believes that a probable advantage of naming Fascists in the present bill is that the burden of proving the principles and beliefs of either the Fascist Grand Council or the National Socialist Labor Party in each case will become unnecessary.—*Extracts, see 2, p. 288.*

Should Congress Pass the Dies Bill to Deport Alien Fascists and Communists?

Negative (*See provisions on page 263*) **CON**

★ *Representative O'Day, in presenting the minority report, says the Dies bill is but one of many repressive measures now pending in Congress, is wholly unnecessary, and, if passed, would put America on a par with Communist and Fascist countries in the blotting out of civil liberty.*

by

Hon. Caroline O'Day

U. S. Representative, New York, Democrat

THIS bill is objectionable primarily because it is merely a new manifestation of the type of repressive legislation which has always proved a tragic failure in this country. It is a new form of the Alien Act of 1798 which raised so great a storm of protest from the country, led by Jefferson and Marshall, that it was never enforced. Its enactment would lead to the imposition of a new system of espionage over our aliens similar to that which was in effect during and after the World War with notoriously sterile results. The bill is founded upon the fallacy that ideas and beliefs may be effectively changed or suppressed by legislation. Another fallacy which contributes to its proposal is that we can cure or substantially help our economic difficulties by getting rid of aliens who compete for jobs with our own citizens. Unfortunately this bill is not the sole manifestation in this Congress of such sentiments which are, it may be emphasized, not shared by the enlightened conservative opinion of this country. There are now pending a great variety of repressive measures, ranging from a bill which would prevent any alien from holding a job (H. R. 3048) to bills which would imprison any of our citizens advocating doctrines not shared by the majority (H. R. 6427). If all this mass of bills should be enacted there would be no appreciable difference between this country and the countries of the Communists and Fascists against whom this bill is aimed. It will not do to say that because the Communists and Fascists in their own countries have blotted out all civil liberty, we must oppose them by adopting the same methods. To so reason is obviously to reason in a circle. Moreover, it may be noted that measures of this character have represented one of the early steps in the growth of all forms of fascism in Europe.

Apart from its significance as a part of a regrettable movement, sponsored by certain sections of the press and certain organizations, this bill in itself would be merely a little silly. It adds to the present provisions of the law relating to the exclusion and deportation of anarchists, similar provisions relating to Fascists and Communists. Communists and Fascists are then defined, with one exception, in the same way as anarchists are at present defined. (It obviously makes no difference whether an alien is deported with a tag of anarchist or a tag of Communist or Fascist on him.) The exception, which is found in subparagraph 5, which is to be added to section 1 of the act of October 16, 1918, as amended, is the only thing new which is in the bill. It says that an alien is a Communist or Fascist, and so excludable or deportable, who advocates the overthrow of the government of "countries not under the control of Communists or Fascists, and the establishment in place thereof of" certain specified regimes. Inasmuch as the present law (as needlessly repeated in this bill) already reaches the same result with respect to aliens advocating the overthrow of this Government the new subdivision adds to the present law only a provision excluding or deporting aliens who express views about some government other than our own, and not Communist or Fascist. Passing over the obvious undesirability of our thus indirectly taking sides in the governmental disputes of other countries, it would appear to be extremely difficult for the Secretary of Labor or for any other official in our Government to determine whether some other governments fall within the ban proposed by this bill. In this connection it is interesting to note that among the governmental regimes whose advocacy is proscribed by this bill are "national or state socialism" or "totalitarian state," both of which epithets have been variously ascribed to the present regime in this country. A similar confusion of phraseology exists, of course, with respect to the terms "Communist" and "Fascist."

Furthermore, subparagraph 5, which would be added by this bill, would, even if it were practicable, accomplish practically nothing more than can be and is being accomplished under the present law. It is apparently not denied by the majority of the committee that Communists are being deported under the present law. It is, however, suggested that there may be a small kernel of profit in this bill in that it would relieve the Government of the burden of proving in each case the principles of the communist organization to which a particular alien belongs. Apparently it is thought that this results from the provision of the bill that includes in the proscribed doctrines "the platform, program, and the objectives of the Third International, the Communist International the Fascist Grand Council, or National Socialist Labor Party." It will, however, still be necessary for the Government to prove that the particular alien is affiliated with one of these organizations; and moreover, it is interesting to consider that the views entertained by these regrettable organizations at the time this bill is proposed may very well be changed in the future.—*Extracts, see 2, p. 288.*

Should Congress Pass the Dickstein Bill to Terminate the Stay of Alien Propagandists?

PRO (*See provisions on page 263*) **Affirmative**

★ *Representative Dickstein, reporting his bill, says the enactment of such a law was proved necessary by the findings of the Special Committee Investigating Alien, Nazi, Fascist and Communist Activities in America.*

by
Samuel Dickstein
U. S. Representative, New York, Democrat

IN its report to the House on February 15, 1935, the Special Committee on un-American activities recommended:

"That Congress should enact a statute conferring upon the Secretary of Labor authority to shorten or terminate the stay in this country of any visitor admitted here under temporary visa, whenever, in the judgment of the Secretary, such visitor shall engage in the promotion or dissemination of propaganda or engage in political activity in the United States."

The public hearings held before the Special Committee on Un-American Activities, together with the full report of that special committee, indicate very clearly the need for a new statute as is proposed by this impending bill.

This bill fully complies with above specific recommendation by definite legislative authorization for a regulation, pursuant to the general authorization in existing law, to shorten or terminate the stay here of nonimmigrant aliens not admitted for permanent residence, who promote or disseminate propaganda instigated from foreign sources or who engage in political activities in the United States.

Notwithstanding existing provisions of law, it developed during the progress of the comprehensive investigation by the Special Committee on Un-American Activities that the promotion of the dissemination in the United States by aliens of subservise propaganda instigated from foreign sources was not solely deemed sufficient grounds for the Immigration and Naturalization Service to initiate procedure under the immigration acts to remove aliens engaged in those questionable activities whether those aliens were here on temporary status or on permanent residence status.

There is not now any reason why our immigration laws should not be corrected so that deportation would follow activities by any alien desiring to spread in the United States any kind of alien doctrine or philosophy inconsistent with our constitutional plan of government or racial or religious intolerance proposals which endeavor to aline Americans against Americans for internal discord in the United States.

While this measure is not retroactive with respect to aliens who have heretofore engaged in propaganda activities, the continuance of their propaganda activities after the enactment of this act will subject them to the penalties contained herein. Also the enactment of this measure now will serve notice to all persons abroad who may contemplate coming here to carry on propaganda that their activities here will subject them to removal proceedings.

This bill provides legislative definitions of the phrase "propaganda instigated from foreign sources" and the phrase "unlawful political activities instigated from foreign sources."

The inclusion of these definitions in the bill is intended to be a limitation by the Congress upon the delegated authority herein granted to the Secretary of Labor, by more clearly stating what classes of activities by certain aliens Congress disapproves when those specified and defined activities are carried on by aliens in this country and which when so carried on shall subject these certain aliens to the penalties imposed by this act.

This would seem to meet the objections raised against sections 1 and 2 of this bill during public hearings conducted by your committee on a similar bill which did not have in it the provisions of section 3 of this present bill.

This bill concerns itself only with aliens who have been admitted and aliens who are in the United States, and Congress certainly is within its province when it provides legislation under which these certain aliens, who are found to be advocating foreign instigated proposals of government form and government operations, may be asked to leave or be unwillingly removed.

It is now quite generally conceded that the immigration problems, so far as the United States is concerned are domestic problems and that Congress may indicate who may come here and who may not stay.

Your committee feels that upon questions concerning the form of government that should prevail within the United States, and on questions concerning the operations of government under our existing Constitution, the alien who is here on a temporary status as a visitor or guest and the alien who is here for permanent residence but who has not yet been admitted to United States citizenship, should not lend his efforts and voice to the spreading in this country of foreign ideas. Especially does your committee feel this is true when those foreign ideas contemplate the immediate or ultimate use of force and violence to overthrow the Government of the United States and dictate how the Government established should act. These questions, your committee feels, rest in the people who are the citizens of the United States.—*Extracts, see 7, p. 288.*

Should Congress Pass the Dickstein Bill to Terminate the Stay of Alien Propagandists?

Negative (*See provisions on page 263*) **CON**

★ *In a brief against the Dickstein Bill, the American Civil Liberties Union charges that the bill, if passed, would subject alien visitors to endless espionage, is unnecessary because of existing laws and is probably unconstitutional.*

by

The American Civil Liberties Union

THIS bill authorizes the shortening or termination of the stay in the United States of alien visitors who engage in "the promotion or dissemination of propaganda instigated from foreign sources or who, while in the United States, engage in political activities." Even further, the bill authorizes the Secretary of Labor to institute deportation proceedings against *any* alien who engages in such propaganda or activities in the United States.

This proposal is unprecedented in American history. It goes far beyond the present provisions of law in authorizing the Secretary of Labor to supervise and control the utterances of alien visitors, whoever they may be, and to deport *any* aliens, however long they may be resident in the United States, who engage in propaganda or "unlawful political activities instigated from foreign sources". It is presumably aimed at Nazi and Communist propagandists.

This open door to examining the utterances and connections of any foreign visitor or any alien resident would swamp the Department of Labor with complaints by opponents or trouble-makers. An Irish propagandist, for instance, could be at once attacked for advocating political changes in Ireland. Zionist propagandists would be equally subject to attack. Spokesmen for the freedom of India, of countries under Fascist tyranny, of racial, religious and political minorities abroad, or propagandists against the Soviet Union, all these among others could not raise their voices without fear of being haled before the Department of Labor on charges by their enemies.

Agents of religious movements with headquarters abroad who spread religious propaganda could be brought under the terms of the law. So could representatives of international labor movements, of the Masonic Order, and even representatives of international business organizations with foreign headquarters. The language of the bill has unlimited possibilities for striking at any foreign visitor or any alien.

From a legal point of view, the bill is probably unconstitutional, since it does not confine itself to specified advocacies of particular doctrines. Furthermore in the second section of the bill where the phrase *"unlawful* political activities" is used, the language is again without legal force. How the Secretary of Labor is to determine what is an "unlawful" political activity without a trial is not indicated. If the activities or propaganda were unlawful under the Immigration Act such aliens could be deported anyhow.

The bill should be defeated because:

(1) It would subject all alien visitors and all aliens engaging in any public activities to endless espionage and harrassment by opponents or trouble-makers.

(2) It would subject the Department of Labor to all sorts of pressures to deport any alien in the country who engages in any public activity. The possibilities of abuse of such a statute are limitless.

(3) The proposal violates the whole tradition of our law and of our policy toward aliens in making mere undefined propaganda an offense. This country has always tolerated propagandists from other lands who deal with conditions in their home countries. Millions of aliens and naturalized citizens here are interested in these issues and should not be denied the right to hear them discussed.

(4) The proposal is doubtless unconstitutional because of its vague and loose language.

(5) No amendment of such a bill can be conceived which would accomplish its presumed object of striking at Nazi propagandists without at the same time subjecting all other propagandists to espionage, pressure and harrassment.

(6) The present laws controlling aliens are among the most stringent in the world, and can be relied upon to deport at once any alien advocating any subversive or revolutionary doctrines.

Although we have become accustomed to the idea of deporting aliens from the United States because of proscribed beliefs or membership in proscribed organizations, the idea is of recent origin. Exclusive of the Alien Act of 1798, it was not until 1903 that, as a result of the assassination of President McKinley, the first law was passed for the deportation of aliens on account of their beliefs.

In the basic act of 1917 there is included among those who are deportable "at any time" aliens who are found teaching or advocating the unlawful destruction of property, or anarchy, or the overthrow by force or violence of the government of the United States or of all forms of law, or the assassination of public officials. With the advent of war and of the Russian Revolution, the act of October 16, 1918 was passed, and later amended by the Act of June 5, 1920. This law for the first time rendered deportable persons who were "anarchists" or who believed in proscribed doctrines or who were members of or affiliated with proscribed organizations.

Although these laws have been held not to be within the constitutional protection of the right of free speech it nevertheless remains true that they violated the spirit of the First Amendment to the United States Constitution as well as of our American tradition.—*Ext., see 8, p. 288.*

Various Types of Immigrants Defined

An *immigrant*, by official definition, is any alien departing from any place outside the United States to the United States for *permanent* residence.

A *quota immigrant* is an immigrant who is subject to the numerical restrictions applicable to the nationality to which he belongs, and when the quota or number of immigration visas allotted to his particular country of birth has been exhausted or issued, such immigrant will be refused an immigration visa in that year.

A *quota-preference immigrant* is a quota immigrant who is entitled to preference in the issuance of an immigration visa. This classification includes:

1. The father and mother of a citizen of the United States who is 21 years of age or over.

2. The husband (by marriage after June 30, 1932) of a citizen of the United States, regardless of her age.

3. Quota immigrants who are skilled in agriculture and their wives and dependent children, the latter under 18 years of age, if accompanying or following to join them. (This applies only to nationalities which have quotas of 300 or more annually.)

4. The wives and unmarried children, the latter under 21 years of age, of alien residents admitted to the United States for permanent residence.

A *nonquota immigrant* is an immigrant who is entitled to exemption from the quota restrictions in the issuance of an immigration visa. This classification includes:

1. The wives and unmarried children, the latter under 21 years of age, of citizens of the United States.

2. Husbands of citizens by marriage before July 1, 1932.

3. Permanently admitted alien residents returning after a temporary absence to resume an unrelinquished domicile.

4. Immigrants who are natives of Canada, Newfoundland, Mexico, Cuba, Haiti, the Dominican Republic, the Canal Zone, or an independent country of Central or South America, and their wives and unmarried children, the latter under 18 years of age, if accompanying or following to join them.

5. Ministers of religious denominations and their wives and unmarried children, the latter under 18 years of age, if accompanying or following to join them.

6. Professors of colleges, academies, seminaries, or universities, and their wives and unmarried children, the latter under 18 years of age, if accompanying or following to join them.

7. Bona fide students 15 years of age or over.

8. Women who were citizens of the United States and who lost their citizenship by reason of marriage to aliens, or through the loss of United States citizenship by their husbands, or by marriage to aliens and residence in a foreign country.

A nonimmigrant is any alien departing from any place outside the United States destined for the United States, who seeks to enter for a temporary stay. The following are regarded as nonimmigrants:

1. Government officials, their families, attendants, servants, and employees.

2. Visitors for business or pleasure.

3. Transits.

4. Bona fide seamen.

5. Aliens entitled to enter the United States solely to carry on trade between the United States and the foreign state of which they are nationals, under and in pursuance of the provisions of a treaty of commerce and navigation, and their wives and unmarried children under 21 years of age, is accompanying or following to join them.

An alien seeking to enter the United States temporarily for business or pleasure may be admitted for a reasonable, fixed period, the length of which will depend upon the individual case, on condition that he will maintain a nonimmigrant status and will depart voluntarily upon the expiration of his authorized stay. Application for extension of temporary admission may be filed by the alien on form 639, with the officer in charge at the port of entry, not more than 30 nor less than 15 days prior to expiration of authorized stay.

An alien who is admitted as a nonimmigrant cannot remain in the United States permanently, nor after he relinquishes his nonimmigrant status. An alien who fails to maintain his nonimmigrant status or who fails to depart in compliance with the terms of his admission renders himself subject to deportation proceedings. An alien admitted temporarily to the United States as a visitor is considered as having failed to maintain his status if he engages in any business or occupation or employment, or, if having been admitted temporarily for business, he engages in any business or employment other than that given as a reason for his request for temporary admission. To obtain permanent admission, a nonimmigrant must depart voluntarily to some foreign country (any one to which he can secure admission), procure from a United States consul a proper visa, and thereafter undergo examination by officers of this Service at a United States port of entry for determination of his admissibility in accordance with the requirements of the immigration laws.

The marriage of an alien visitor to an American citizen does not confer upon that alien the right of permanent or indefinite residence in America.

The official report of the Department of Labor states that:

"The total number of aliens admitted to the United States in 1934 was 163,904. Of these, only 29,470 were immigrants admitted for permanent residence. Of the 134,434 classified statistically as nonimmigrants, 13,068 were temporary visitors for business, 36,765 temporary visitors for pleasure, 23,687 travelers in transit, and 54,923 alien residents of the United States returning from trips abroad.

"The number of immigrants in 1934 was greater than in 1933, when only 23,068 were admitted, but less than in any prior year since 1831. For comparison with the more recent past it may be stated that during the decade

Continued on page 288

A List of Library References on Alien Deportation

Compiled by Miss Florence S. Hellman

Division of Bibliography, Library of Congress

BREMER, E. T. How is it with the non-citizens: must deportation follow on the heels of unemployment? *Womans Press*, Dec. 1930, v. 24:847-848.

Chamber of commerce of the state of New York. Alien deportation and registration; report and resolutions submitted by the Executive committee, May 6, 1926. *In Its Monthly Bulletin*, May, 1926, p. 7-18. Also issued separately.

CLARK, JANE PERRY. Instructor in Government, Barnard College, N. Y. City administrative standards in deportation procedure. *Political Science Quarterly*, June, 1929, v. 44:193-214. (Footnote references, including citations to cases.)

———American deportation procedure; an international social problem. Foreign language information service. *Interpreter Releases*, April 18, 1927, v. 4:56-61.

———Deportation of Aliens from the United States to Europe, Columbia University Press (1931), pp. 524. (One of the critical and detailed studies in history, economics, and public law, edited by the Faculty of Political Science of Columbia University. This monograph upon the interpretation and administration of the deportation law, based upon case records, contains constructive criticisms, and includes a biography).

COLLINS, PAUL V. Alien vs. free born. *North American Review*, Dec. 1930, v. 230:742-748.

COMMISSIONER HULL, exporter. *Saturday Evening Post*, v. 202, Jan. 18, 1930:24.

CRAWFORD, REMSEN. Deportation of undesirable aliens. Current history, Sept. 1929, v. 30:1075-1080.

DAVIS, JAMES J. Selective immigration. St. Paul, Minn., Scott-Mitchell Pub. Co. [1925], 227 p. Deportation: p. 99-104.

Deportation of alien seamen. Foreign Language Information Service. Interpreter releases, Sept. 30, 1927, v. 4:124-131.

Deportation of alien seamen within five years of return from temporary absence [United States ex. rel. Claussem v. Commissioner of Immigration, 49 Sup. Ct. 354] *Columbia Law Review*, Nov. 1929, v. 29:1009-1010.

Deportation of aliens. *Law Times*, Feb. 16, 1929, v. 167:128-129.

Deportation on the ground of being a public charge. *Foreign Language Information Service*. Interpreter release, Dec. 11, 1930, v. 7:261-267.

Do we still believe in exile? The Interpreter, Aug. 1930, v. 9:83-86.

FUGINA, C. E. Fair hearing in deportation proceedings. *Wisconsin Law Review*, July, 1927, v. 4:217-220.

GARIS, ROY L. Immigration restriction; a study of the opposition to and regulation of immigration into the United States. New York, The Macmillan Co., 1927. 376 p. (See Index under Deportation: p. 374.)

———It is time to clean house. *Saturday Evening Post*, v. 199, Sept. 25, 1926:33.

———National origins and deportations, what must Congress do? *Scribner's Magazine*, Jan. 1928, v. 83:52-56.

GOLDMAN, EMMA. The voyage of the Buford. *American Mercury*, July, 1931, v. 23:276-286.

GOLDSTEIN, ARTHUR D. Deportation of aliens, limitations upon the Federal power of deportation [United States ex. rel. Feuer v. Day, 42 F (2d) 127] *New York University Law Quarterly Review*, Dec. 1930, v. 8:313-315.

HARD, WILLIAM. Alien guest cards. *Saturday Evening Post*, v. 203, Jan. 24, 1931: 21.

JACKSON, GARDNER. Doak, the deportation chief. *Nation*, Mar. 18, 1931, v. 132:295-296.

LEVANDOSKI, ARNOLD. Citizenship and deportation. *Notre Dame Lawyer*, Nov. 1929, v. 5:81-90.

MACDONALD, ALAN. Good-bye America! *Review of Reviews* (American) v. 81, May, 1930:78-79.

Membership in the Communist party of America justifies deportation. Skeffington v. Katzeff ex. rel. Colyer (U. S. Circuit court of appeals, first circuit). *Law and Labor*, Feb. 1922, v. 4:47-48.

More deportations needed. *Saturday Evening Post*, v. 198, Apr. 3, 1926:34.

Need of amendment to immigration laws in favor of bona fide political refugees. *New Republic*, Apr. 16, 1930, v. 62:230.

OPPENHEIMER, REUBEN, of the Baltimore, Maryland, bar; The Administration of the Deportation Laws of the United States, Report No. 5, May 27, 1931, National Commission on Law Observance and Enforcement, Washington Government Printing Office (1931), pp. 179. (The writer develops historically and procedurally the growth of the administrative enforcement of the deportation law, and points out suggested remedies for defects which have appeared.)

Petty larceny not moral turpitude under immigration laws [Ex parte Edmead (Mass.) 27 F (2d) 438] *Columbia Law Review*, Dec. 1928, v. 28:1100.

Political deportations. *Canadian Forum*, May, 1931, v. 11:284.

RICHARDSON, ELMER G. Fair hearing in deportation proceedings. *Lawyer and Banker*, July-Aug. 1927, v. 20:241-244.

ROM, MRS. GUDRUN. Family problems resulting from the present deportation system. (In National conference of social work. Proceedings, 1927. p. 568-572.)

Shall aliens be registered? *Survey*, May 15, 1930, v. 64:179.

SHEPHERD WILLIAM G. What's moral turpitude? *Collier's*, v. 87, May 9, 1931: 20-21.

Social considerations in deportation. *Foreign Language Information Service*. Interpreter release, June 24, 1930, v. 7:121-136. (Contents: Detention of deportees, by J. P. Clark; Expulsion of aliens from the United States, by P. F. Snyder. Addresses before the National conference on social work, Boston, June 10, 1930.)

STEPHENSON, GEORGE M. A history of American immigration, 1820-1924. Botson, New York, Ginn and Co. [1926] 316 p. (Deportation of aliens: p. 173-175; of Orientals: p. 262-263.)

STODDARD, T. LOTHROP. Re-forging America; the story of our nationhood. New York, London, C. Scribner's Sons, 1927. 389 p. (Proposed wholesale deportation methods: p. 211-212.)

SUGAR, MAURICE. Michigan passes the Spolansky act, a registering, photographing, fingerprinting, excluding, deporting, and jailing act. *Nation*, July 8, 1931, v. 133:31-33.

Tragedy and comedy on the deportation special. *Literary Digest*, v. 105, Apr. 5, 1930:43-44.

Undeported undesirables. *Saturday Evening Post*, v. 200, Feb. 18, 1928:22.

U. S. Bureau of immigration. Annual report. Washington, Gov't. print. off., 1930. 276 p. [Deportations (Expulsions); p. 22-25.]

U. S. CONGRESS. Deportation of aliens convicted in violation of Harrison narcotic law. Report to accompany H. R. 3394. [Washington, U. S. Gov't. print. off., 1930. 2 p. (71st Cong. 2d sess. House. Rept. 1373)

———Deportation of alien seamen: hearings before a subcommittee, Feb. 24, 1931, on S. 202; statement of Andrew Furuseth, 71st Congress, 3d sess. Washington, U. S. Gov't. print. off., 1931. 40 p.

———Same: hearings before a subcommittee, Feb. 24-28, 1931, on S. 202, 71st Cong. 3d sess. Washington, U. S. Gov't. print. off., 1931. 158 p.

———Deportation of certain aliens, report [and minority views] to accompany H. R. 17152, to expedite deportation of certain aliens, and for other purposes. [Washington, U. S. Gov't. print. off., 1931.] 2 pts. (71st Cong. 3d sess. House. Rept. 2799). (Submitted by Mr. Johnson. Minority views, submitted by Mr. Dickstein.

———Exclusion and expulsion of alien communists. Report. (To accompany H. R. 16296) [Washington, U. S. Gov't. print. off., 1931] 2 p. (71st Cong., 3d sess. House. Rept. 2797). (Submitted by Mr. Cable.)

U. S. Laws, statutes, etc. Immigration laws and Rules of January 1, 1930. Washington, Gov't. print. off., 1929. 214 p. (See Index under Deportation: p. 200-201.)

Continued on page 288

U. S. Deportation of communist. Insistence on return to Italy. Manchester, Sept. 26, 1930, v. 23:247.

VAN VLECK, WILLIAM C., Dean, George Washington University Law School; The Administrative Control of Aliens—A Study in Administrative Law and Procedure, New York, the Commonwealth Fund (1932) pp. 260. (One of a series of special studies of administrative agencies prepared under the auspices of the distinguished Legal Research Committee of the Commonwealth Fund. Dean Van Vleck has written of the Federal statutes and practice covering the process of the exclusion and expulsion of aliens. An excellent critical first-hand study of the subject, including examination of case records.)

Current articles on immigration and naturalization may be found by reference to the Reader's Guide generally found in Public Libraries. Technical articles on these subjects have appeared in many legal periodicals. They may be found indexed by subject and author in such publications as Chipman's Index (1898 to 1932), Index to Legal Periodicals (1908 to date), and Commerce Clearing House's Legal Periodical Digest (1923 to date).

Mr. Trevor—Con

Continued from page 281

aration of the family, because the family can go with the alien to the country from which the alien entered the United States.

Now, we have at the present time, I believe it is admitted, some 10,000,000 American people unemployed, and we think that the group of undesirable aliens that are involved in these cases might very well be removed from the country. Unquestionably, there is a certain amount of hardship, but the enforcement of any law involves hardship, and it is unavoidable, when you send a prisoner to jail, that a hardship is created. The breadwinner is taken away from the family, in this case, but if restriction of immigration is really to be maintained —and that is the reason why we advocate what may seem the strictest course of action—a penalty must be so severe that illegal entry into the United States will be stopped. We think there are enough people here, too many, and the only way we see that the general enforcement of the principle of restriction can be maintained will be by withholding discretionary power.—*Extracts, see 1, p. 288.*

Various Types of Immigrants Defined

Continued from page 286

from 1901 to 1910 the average number of alien immigrants admitted each year was 879,539; from 1911 to 1920, including the period of the World War, the annual average was 573,581; and from 1921 to 1930, important restrictive legislation having been enacted in 1921 and 1924, it fell to 410,721. The average for the past 4 years, 1931-34 was 46,313. The great reduction since 1930 has been due primarily to restrictions on the issue of consular visas and the depressed economic condition of this country.

"Immigrants charged to the quotas of their respective countries of origin numbered 12,483, as compared with 8,220 in 1933, and a maximum admissible under all quotas of 153,774.

"As segregated by races the 29,470 immigrants admitted included 4,703 Italians, 4,134 Hebrews, 3,760 Germans, 3,494 English, 1,791 French, 1,549 Irish, 1,505 Scotch, 1,454 Mexicans. No other race contributed as many as 1,000 immigrants. Nearest to this figure were the Scandinavians, with 770. Of the Hebrews admitted 1,786 came from Germany and 672 from Poland. Canada contributed 2,327 English, 1,360 French, 1,077 Scotch, and 987 Irish."

Sources of Material in This Issue

1—Hearings House Committee on Immigration and Naturalization on H. R. 6795 (H. R. 8163) April 9-11, 1935.
2—Committee Report on H. R. 7120, 74th Congress 1st session (H. Report 1023 Pts. 1 and 2).
3—(Dies) Congressional Record, June 26, 1935.
4—(Jenkins) Congressional Record, August 3, 1935.
5—(Kerr bill) Report of Committee on Immigration and Naturalization on Kerr bill H. R. 8163, 74th Congress 1st session, H. Report No. 1110, Pts. 1 and 2.
6—(Allen) Address before American Bar Association, Los Angeles, July 16, 1935.
7—(Dickstein) Report of House Committee on Immigration and Naturalization on H. R. 7221, May 31, 1935. (House Report No. 1075, 74th Congress 1st session.)
8—Briefs by Civil Liberties Union against Dickstein and Dies Deportation Bills, April, 1935.

Statement of Ownership

(Required by Act of Congress, August 24, 1912)

Of the CONGRESSIONAL DIGEST, published monthly (except for months of July and August), at Washington, D. C., for October 1, 1935.

Before me, a Notary Public in and for the District of Columbia, city of Washington, personally appeared A. G. Robinson, who, having been duly sworn according to law, deposes and says she is the Editor, Publisher and Owner of the CONGRESSIONAL DIGEST and that the following is, to the best of her knowledge and belief, a true statement of the ownership, management, etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912, embodied in Section 443, Postal Laws and Regulations, to wit:

1. That the names and addresses of the publishers, editors, managing editors, and business managers are: A. G. Robinson and N. T. N. Robinson, 2131 LeRoy Place, Washington, D. C.

2. That the owner is: A. G. Robinson, 2131 LeRoy Place, Washington, D. C.

3. That the known bondholders, mortgagors, and other security holders owning or holding one per cent or more of total amount of bonds, mortgages, or other securities are (if there are none, so state). None.

A. G. ROBINSON,
Signature of Publisher.

Sworn to and subscribed before me this 10th day of Oct. 1935.
C. D. Ratcliffe, Notary Public.
My commission expires June 15, 1936.